

VISIT...

LANZAROTE
Caliente.COM



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

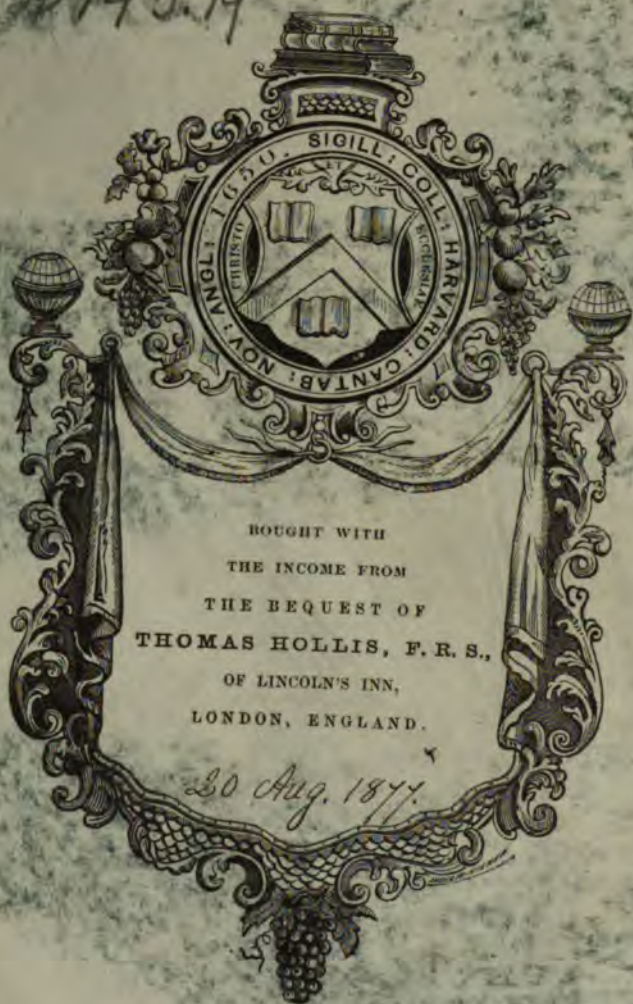
We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

B. 145.19



BOUGHT WITH
THE INCOME FROM
THE BEQUEST OF
THOMAS HOLLIS, F.R.S.,
OF LINCOLN'S INN,
LONDON, ENGLAND.

20 Aug. 1877.

PROTESTS OF THE LORDS.

London

MACMILLAN AND CO.



PUBLISHERS TO THE UNIVERSITY OF

Oxford

A COMPLETE COLLECTION
OF THE
PROTESTS OF THE LORDS

WITH HISTORICAL INTRODUCTIONS

EDITED FROM THE JOURNALS OF THE LORDS

BY
JAMES E. THOROLD ROGERS

VOL. II. 1741—1825

*'PRO CERUM PARS MAGNA COIBIT
CERTA LOCI'*

 Oxford

AT THE CLARENDON PRESS

M DCCC LXXV

[All rights reserved.]

~~1443.3~~

Bz 145.19

1877, Aug. 20.
Hollis Fund.

PROTESTS.

CCCXVII.

FEBRUARY 8, 1741.

THE augmentation of the forces which had been agreed to in the Commons, and in the form which had been given to it by the Administration came before the Lords on the 3rd of February. It was met by an address, moved—it appears from the Secker MSS.—by the Earl of Chesterfield, who urged with great emphasis that the object of creating these eleven new regiments, with 362 commissions, was bribery at the ensuing election. The motion was as follows, ‘That an humble address be presented to his Majesty, humbly representing to his Majesty, that this House cannot conceive the intended augmentation of land forces to be necessary, either from the present situation of affairs in Europe, or from any lights they have received ; such as have always been thought necessary by our ancestors, to justify the laying any extraordinary burthens on the subject. And most humbly to beseech his Majesty, that if he should however think so great an augmentation absolutely necessary, he will, at least, be graciously pleased, as well for the present, as for the future ease of his subjects, to order it to be made in the most frugal manner, by such an addition of private men to the present regiments, as his Majesty, from his own wisdom and knowledge of the practice of most other countries, may judge to be most proper for military service, and least dangerous to this constitution.’ Lord Bathurst, in supporting the address, asserted that Jacobite principles were totally eradicated. It appears, however, from the Stuart papers that the Pretender was in communication with several members of both Houses at the time. In the course of the debate, the Earl of Ilay said the expression ‘we cannot conceive, &c.’ was the most indecent and disrespectful that was ever offered to the Crown, and bade the Lords remember that they are Peers, but not forget that they are subjects. The motion was lost by 67 to 49.

It produced the following long protest.

1st, Because we conceive that nothing less than an evident and absolute necessity should prevail with us, to consent to any augmentation of our land forces, which in our opinions are, at present, fully sufficient for any good purposes, either abroad, or at home ; being very near equal to the highest establishment,

during the whole course of the last general war. The national troops now subsisting (exclusive of those in Ireland) amount to 51,515 effective men; whereas our greatest number of national troops, in the last war, was but 67,000 men, including the non-effectives; which, reduced to the foot of the present establishment, makes but 57,000 effective men; and the present intended augmentation of 10,325 men, is such an exceeding as can only be authorized by the like public dangers; which dangers not appearing to us, either from the debate, or from any information we have obtained, we are unwilling to trust more force in the hand of an Administration, which, as far as we are able to recollect, have not hitherto employed any they have been so trusted with to the honour and advantage of the nation. Extraordinary trust and confidence ought, as we apprehend, only to be placed in such, who, by the experience of their past conduct, have justly established their credit, and entitled themselves to be so trusted. But when we look back upon the several augmentations within these last twenty years, demanded and granted upon causes more strongly asserted, than clearly proved, but visibly without any good end ever attained; and particularly when we reflect that by a most unaccountable fluctuation and contrariety of measures, a very great augmentation was made in the year 1727, to act in conjunction with France against the House of Austria, for whose defence the present augmentation is said to be principally intended; we thought it our duty to endeavour to prevent any unnecessary increase of our land forces; not being influenced either by the pretended apprehensions or real fears of an administration, the boldest in domestic, but, as we apprehend, the most pusillanimous in foreign transactions.

2ndly, Because we conceive, that dangers alleged from disaffection at home, are, in a great measure, groundless; no symptoms of such disaffection having appeared for many years, and the principles upon which it was formerly grounded, being almost universally worn out and exploded. And we think it highly necessary to distinguish between disaffection arising only from the conduct of the Administration, and disaffection to his Majesty and his royal family, though some may desire to blend them. For had the present general dissatisfaction at the inglorious, though burthensome measures of the Administration, been, in

truth, disaffection to his Majesty, as hath been often falsely suggested by those who desire to confound his cause with their own, twice the number of troops now proposed would not be sufficient to secure the peace of the Kingdom; but, on the contrary, we are persuaded, that the duty and loyalty of the nation to his Majesty and his royal family, and their hopes from his virtues, have checked and kept the dissatisfaction against the Administration within the due bounds of concern and lamentation.

3rdly, Because, considering the advantage of our situation as an island, and our superiority at sea, it is impossible for us to think ourselves in any danger of an invasion from Spain, even if those fleets were now in their ports, which we suffered them to send to America. Nor can we conceive, that about 28,000 effective men, not actually in this Kingdom, with all the advantages of horse and artillery, is not force sufficient to secure us from any body of foot, that any other power could possibly land on our coasts by surprise. And as for any great embarkation, it can neither be made on a sudden, nor in secret; we must have timely notice to provide superior fleets (which, in such a case, we presume, would be allowed to act) to strengthen our own corps, and render such an attempt wholly impracticable. In which opinion we are the more confirmed, because that in the most glorious year of the last war, when the Duke of Marlborough and his army were in the middle of Germany, out of the reach of giving us any assistance at home, it was not thought necessary, by the wise Administration of that time, to keep above 9000 men in this island, for our defence against France, then irritated by our successes; and surely, three times that number must be now abundantly sufficient, unless more are wanted for purposes not thought of by former Administrations, nor yet openly avowed by this.

4thly, Because, whatever demands may be made upon us by our allies on the continent, we conceive may be answered by the foreign troops now in our pay; and should any further assistance to them be necessary, it will not only be cheaper and safer to us, but more advantageous and agreeable to those Powers themselves, that we should furnish our quotas in money, with which they may raise a greater number of men than we are obliged to supply.

5thly, Because it has been undeniably proved, that this method of augmentation by new corps, is by one-third more expensive than that of adding private men to companies; the expense of raising those 5705 men, amounting to £116,322 14s. 2d., whereas 5780, raised by additional men to companies, with a second lieutenant to each company, would have amounted but to £86,992 15s., which would be not only a present saving of £29,329, but a future saving of £10,134 per annum,* upon the half-pay of the officers of those seven regiments, the few officers taken out of the half-pay only excepted. And we think, that at a time when the public expense is so very considerable, the strictest economy is requisite, the better to enable a burdened and indebted nation to continue those expenses, that may be more necessary to be borne, than easy to be supplied. And, as to the advantage of the service, the facts plainly proved in the debate, together with the practice of most other nations in Europe, and, in particular, of his Majesty's electoral dominions, convince us, that if this augmentation was made by additional men to companies, with a proper increase of sergeants and corporals, the military service, at least, for which alone it ought to be intended, would be better carried on than by the method now to be pursued.

6thly, Because arguments drawn from the usage of France, we conceive, do not hold with relation to us, it being well known, that the expense of 150,000 French troops do not amount to more than 50,000 English; that their Government, though once limited, is now absolute and military; that the poverty of their numerous nobility forces them into the army, where the court is glad to engage and keep them in dependence; and that no danger can arise to that constitution from the civil influence, which may attend such an establishment, their Parliament being only nominated by the Crown, and long since reduced, by ministerial arts, from their original power and dignity, to be no more than courts of justice and revenue.

7thly, Because we apprehend, that this method of augmentation by new corps, may be attended with consequences fatal in time of our Constitution, by increasing the number of commissions which may be disposed of with regard to parliamentary influence only. And when we look back upon the conduct of our Ad-

ministration, in relation to military affairs, we have but too much reason to suspect, that parliamentary considerations have of late been the principal causes of favour and disgrace. We have lately too seen new-raised, raw, and undisciplined regiments sent abroad upon the most important services, and others, seemingly much fitter for such services, peaceably encamped at home, for no other reason, as is generally supposed, than the different situations of the respective officers of the several corps. But this, at least, is certain, that in all the new-raised regiments sent to America, there is but one single member of Parliament, which could hardly have been the case of any equal number of regiments in the whole service. And what further induces us to entertain those suspicions is, that this method of augmentation, by one-third the most expensive, and by no means proved to be the most conducive to the service, should be preferred at this time, when an economy, proportioned to the greatness of our expenses, seems particularly requisite; since the war, by our inaction hitherto, and the advantages thereby given to the enemy, may now probably be of long duration, if not of doubtful success. Our distrust of the motives of this augmentation, which creates at once 370 officers, which, by the removals in the army may occasion three times that number of new commissions, ought to be the greater, and our care to prevent the ill effects of it the more vigilant, so near the election of a new Parliament; a crisis, when any increase of influence gained to a minister, may give a decisive and incurable wound to this Constitution. And we cannot forget that an augmentation of 8040 men was likewise made the very year of the elections of the present Parliament, by bringing over eight regiments from Ireland, and by additional men to corps in Britain, which time has since shewn were never intended for foreign service, though they were said to be designed for the preservation of the dominions of the House of Austria, which we then lay under the same engagements both of interest and treaties to defend. The number of officers in Parliament has gradually increased, and is now more considerable than ever; and though we think the gentlemen of the army as little liable to undue influence as any other body of men, yet we think it would be very imprudent to trust the very fundamentals of our Constitution, the independency of Parliaments, to the uncertain

effects of ministerial favour or resentment. And as it is well known that the four eldest officers of the army (the only officers who have served in any high rank abroad) are now displaced, without any crime having ever been alleged against them, we have great cause to dread that an army thus circumstanced, and thus influenced, would, in each capacity, be fatal to our liberties, since ministerial art in Parliaments can alone destroy the essence of our Constitution, and open violence alone the forms of it.

John Ward, Lord Ward.
 Francis Scott, Duke of Buccleuch.
 William Feilding, Earl of Denbigh.
 John Fane, Earl of Westmorland.
 Scroop Egerton, Duke of Bridgwater.
 Brownlow Cecil, Earl of Exeter.
 John Campbell, Duke of Greenwich (Duke of Argyll).
 Anthony Ashley Cooper, Earl of Shaftesbury.
 Henry Howard, Earl of Carlisle.
 Richard Temple, Viscount Cobham.
 Thomas Foley, Lord Foley.
 John Hervey, Earl of Bristol.
 Henry Bowes Howard, Earl of Berkshire.
 Allen Bathurst, Lord Bathurst.
 Hugh Boscawen, Viscount Falmouth.
 Robert Ker, Earl of Ker (Duke of Roxburgh).
 Sackville Tufton, Earl of Thanet.
 George Henry Lee, Earl of Lichfield.
 Price Devereux, Viscount Hereford.
 Montague Bertie, Earl of Abingdon.
 Henry Somerset, Duke of Beaufort.
 Thomas Mansel, Lord Mansel.
 Herbert Windsor, Lord Montjoy (Viscount Windsor).
 George Parker, Earl of Macclesfield.
 Richard Reynolds, Bishop of Lincoln.
 Heneage Finch, Earl of Aylesford.
 Charles Bruce, Lord Bruce of Whorlton.
 Samuel Masham, Lord Masham.
 Philip Dormer Stanhope, Earl of Chesterfield.
 John Russell, Duke of Bedford.
 William Talbot, Lord Talbot.
 John Leveson Gower, Lord Gower.
 George Montagu, Earl of Halifax.
 Maurice Thompson, Lord Haversham.

CCCXVIII.

FEBRUARY 10, 1741.

The circumstances which led to the Convention of Pardo have been stated above. The Opposition again attempted to extract information on this subject, at Lord Bathurst's instance, by moving for papers. The debate, except in a scanty summary given by Secker, is lost. The motion was rejected by 67 to 46. Just before the debate took place, there had been a sharp conversation in the House on the places in which the Lords were severally entitled to sit.

The following protest is inserted.

1st, Because we thought an inquiry into a transaction of such great importance to the honour, trade, and rights of this nation, not only necessary, but totally free from all the objections usually made to the calling for papers; the Convention having been concluded in January, 1739, and war having been since declared against Spain; so that we cannot conceive, that any discovery prejudicial to this nation, or advantageous to any other, can possibly result from an examination into the minutest particles of that negotiation; but we rather apprehend from the manifest unwillingness of the Administration to lay any such lights before us, that discoveries of another nature would be the necessary consequence of the communication of the Papers called for in this question.

2ndly, Because, when we compare the conduct of the Administration through the whole course of the Spanish affairs, with several circumstances that have accidentally appeared to the public, we conceive every part of that conduct liable to just suspicions of one kind or other. The repeated application of the merchants, both to the Crown and to Parliament, for reparation for their past losses, and future security for their trade, the universal cries of the nation upon their insulted honour and violated rights, the several addresses of Parliament to the Crown, and the gracious answers and assurances given by the Crown in return, seemed all to promise a just (and at that time easy) vengeance by the force of our arms, or an effectual reparation of past and solid security against future injuries, by an advantageous treaty of peace; whereas a Convention only was concluded, by which a scanty and insufficient reparation for our injured merchants was stipulated, and our most essential and undoubted rights of a free navigation to the West Indies, without search or

molestation, was at most referred to the future discussion of plenipotentiaries, if even it was ever mentioned at all.

3rdly, Because it has been asserted in a public paper, dispersed all over Europe by the Court of Spain, that our pretension to a free navigation was never so much as mentioned by our ministers, till the conferences arising in consequence of the Convention ; and that the demand was never made in form till July, 1739, which was after the Convention was broke by the non-payment of the money stipulated on the appointed 24th of May. And though we are far from asserting the contents of such papers to be true, yet, as they cannot but raise some doubt, that alone, in a matter of such great national consequence, seems to be a sufficient reason for a strict inquiry, especially since we cannot see any advantage that could arise to the King of Spain from asserting these facts, if they were not true ; but on the other hand we see very strong reasons why the Administration should desire to conceal them, if they are true.

4thly, Because if the bare supposition of cases that may possibly exist, is to be used as an argument why the House should not apply for lights, we conceive that the supposition of other cases equally possible, and it may be more probable, is as good an argument why the House should apply for such informations ; consequently, if we suppose that the Convention concluded at Madrid, on the 14th of January, 1739, was originally negotiated and executed at London in August, 1738, with the Spanish minister then residing here, but that upon Spain's inserting in the body of the ratifications of that Convention, an Act obliging our South Sea Company to pay the sum of sixty-eight thousand pounds towards the reparation to be made to our merchants, which Act was then intended to be kept secret, though since discovered by the necessary communication of it to the South Sea Company, and their non-compliance therewith ; if we suppose that thereupon the same treaty was re-executed by our minister at Madrid, who was instructed at the same time to consent to an Act of the same import, but varied only so as to conceal it ; and if we further suppose that this sacrifice of the South Sea Company was originally proposed by one English minister to the Spanish minister, and upon his accepting it, rejected in an office-letter by another English minister, though afterwards brought into execution ; and if these suppositions are in

a great measure confirmed by some of Mr. Keen's letters, which have been made public, we conceive such transactions ought not to be buried in oblivion, and the author and his accomplices remain uncensured.

5thly, Because we conceive the argument of its being too late in point of time, can be of no force, and only tends to prove that the House will think no time proper for calling for such papers. Some have been refused to be called for by the House, because they related to the present time, and whilst matters were in transaction, a discovery might be dangerous; others, because they related to future operations, and there also a discovery of designs might be detrimental. The present motion related to matters entirely passed, which being rejected, we must give up all further hopes of receiving any lights, relating either to past, to present, or to future transactions. Posterity must therefore be convinced, that we have been reduced to the necessity of taking matters in the gross, and of weighing the sum of things, since the particulars are hid from our sight.

Henry Howard, Earl of **Carlisle**.
Hugh Boscawen, Viscount **Falmouth**.
John Ward, Lord **Ward**.
Charles Bruce, Lord **Bruce of Whorlton**.
John Leveson Gower, Lord **Gower**.
Allen Bathurst, Lord **Bathurst**.
John Fane, Earl of **Westmorland**.
James Compton, Earl of **Northampton**.
Price Devereux, Viscount **Hereford**.
Samuel Masham, Lord **Masham**.
Heneage Finch, Earl of **Aylesford**.
Richard Temple, Viscount **Cobham**.
Brownlow Cecil, Earl of **Exeter**.
George Henry Lee, Earl of **Lichfield**.
Henry Howard, Earl of **Suffolk**.
John Campbell, Duke of **Greenwich** (Duke of Argyll).
Robert Ker, Earl of **Ker** (Duke of Roxburgh).
Hugh Fortescue, Lord **Clinton**.
George Parker, Earl of **Macclesfield**.
Robert Mansel, Lord **Mansel**.
Henry Somerset, Duke of **Beaufort**.

CCCXIX.

FEBRUARY 13, 1741.

The Opposition now proceeded to attack Walpole directly. Lord Carteret moved in the Lords, 'That an address be presented to the King, praying him to dismiss Walpole from his presence and councils for ever,' and a similar motion was made by Sandys in the Commons on the same day. The motion was lost in the Lords by 81 to 54, and in the Commons by 290 to 106. The debate is preserved in the *Parliamentary History*, vol. xi, p. 1047, two accounts being given of it, and a summary of the Lords' debate is in the *Secker MSS.*

The rejection of Lord Carteret's motion led to the following protest.

1st, Because we are persuaded that a sole, or even a first minister, is an officer unknown to the law of Britain, inconsistent with the Constitution of this country, and destructive of liberty in any Government whatsoever; and it plainly appearing to us, that Sir Robert Walpole has, for many years, acted as such, by taking upon himself the chief, if not the sole direction of affairs, in the different branches of the Administration, we could not but esteem it to be our indispensable duty, to offer our most humble advice to his Majesty, for the removal of a minister so dangerous to the King and the Kingdom.

2ndly, Because we think it appeared in the debate, that in many instances of infinite consequence to the interest of the public, he has grossly abused the exorbitant power which he illegally possessed himself of, particularly in the management of the public treasure. And this, we conceive, must plainly appear to every impartial person who recollects, that for these twenty years past this Kingdom has paid the largest taxes that ever were imposed upon it in the time of peace; and yet that the public debts remain much as they stood at the time when this gentleman first entered upon the management of the treasury; and that the Civil List, also, the largest that was ever granted to the Crown, is, as we have the strongest reasons to believe, considerably in debt at this time.

3rdly, Because we conceive it was plainly proved in former debates, that the army, so greatly expensive to this Kingdom, and which only was granted by Parliament for the defence of it, had been managed, both as to rewards and punishments, in such manner as to make it of no military use, but on the contrary, to render it

subservient, as we apprehend, to the very worst of purposes, the influencing elections without doors, and votes within.

4thly, Because we are persuaded, that the vast sums of money, granted on different heads for sea service, cannot possibly have been faithfully applied ; there having been as much money granted by Parliament in the last six or seven years, upon the several heads applicable to the repairing and rebuilding our ships, as would have been sufficient to rebuild the whole fleet of Britain from the keels of the ships, and have put them thoroughly equipped to sea. And yet it is most notoriously true, that since this war began, a very great number of ships have appeared to be in the worst condition for sea service that ever they were known to be in the memory of man, and many of them scarcely fit for Spithead expeditions ; ships having sailed out of the river destined, as was pretended, for foreign service, that have with difficulty been able to swim into the docks of Portsmouth and Plymouth for further repairs.

5thly, Because we apprehend, that by the conduct of Sir Robert Walpole, in relation to foreign affairs during the course of his Administration, the balance of power in Europe has been destroyed ; the House of Bourbon has been aggrandised in many instances, particularly by the addition of Lorrain ; the House of Austria has been depressed by the loss of part of the Duchy of Milan, and the whole Kingdoms of Naples and Sicily. And if such a change in the system of Europe, occasioned by the misconduct of any minister whatsoever, would be criminal, we cannot think it the less so in one who joined in the prosecution of the authors of the Treaty of Utrecht, upon the particular charge of having reduced the House of Austria too low, and left the House of Bourbon too powerful.

6thly, Because it is a fact not to be contradicted, that the Spaniards were permitted quickly to possess themselves of the land belonging to our most important fortress of Gibraltar, which this Kingdom was in possession of, by virtue of the Treaty of Utrecht, till the last siege of that place ; by which permission fortifications were erected, and batteries raised upon the said ground by the Spaniards, whereby the use of the advantageous Bay of Gibraltar is lost to England, and our ships ever since forced to anchor both inconveniently and dangerously under the walls of the town ; and what naturally raises the strongest suspicions in us of this unwar-

rantable proceeding, is, that a British admiral, soon after, was at Cadiz with a powerful squadron of ships of the line, at the time the Spaniards thus unjustly broke their treaty, and that admiral quietly and undisturbed left them in possession of that ground, and convoyed their troops to take possession of the dominions of Tuscany.

7thly, Because the papers upon the table, delivered to this House from the commissioners of the customs do plainly prove, that Sir Robert Walpole, by publicly conniving for many years at the trade carried on with this nation from the Port of Dunkirk, has given up the 9th Article of the Treaty of Utrecht, which we cannot but look upon as a high misdemeanour, and the greater crime in him, that no man whatsoever declared himself with more passionate zeal than he did, against the authors of the Treaty of Utrecht, for having favoured France in most of the Articles in it, which were incontestably stipulated for the interest of this Crown and nation.

John St. John, Lord **St. John of Bletsoe**.
Scroop Egerton, Duke of **Bridgwater**.
Henry Bowes Howard, Earl of **Berkshire**.
Thomas Mansel, Lord **Mansel**.
Brownlow Cecil, Earl of **Exeter**.
William Talbot, Lord **Talbot**.
Henry Howard, Earl of **Carlisle**.
George Henry Lee, Earl of **Lichfield**.
Montague Bertie, Earl of **Abingdon**.
John Fane, Earl of **Westmorland**.
William Feilding, Earl of **Denbigh**.
Richard Reynolds, Bishop of **Lincoln**.
Richard Temple, Viscount **Cobham**.
John Ward, Lord **Ward**.
Richard Smallbrooke, Bishop of **Lichfield and Coventry**.
Allen Bathurst, Lord **Bathurst**.
George Parker, Earl of **Macclesfield**.
Maurice Thompson, Lord **Haversham**.
John Campbell, Duke of **Greenwich** (Duke of Argyll).
Hugh Fortescue, Lord **Clinton**.
George Montagu, Earl of **Halifax**.
Hugh Boscawen, Viscount **Falmouth**.
John Leveson Gower, Lord **Gower**.
John Russell, Duke of **Bedford**.
Francis Scott, Duke of **Buccleuch**.
Charles Bruce, Lord **Bruce of Whorlton**.
Heneage Finch, Earl of **Aylesford**.

Henry Somerset, Duke of **Beaufort**.
Philip Dormer Stanhope, Earl of **Chesterfield**.
Price Devereux, Viscount **Hereford**.
John Hervey, Earl of **Bristol**.

CCCXX.

FEBRUARY 13, 1741.

Immediately on the rejection of the motion for the address to remove Walpole, the Duke of Marlborough moved, 'That any attempt to inflict any kind of punishment on any person without allowing him an opportunity to make his defence, or without any proof of any crime or misdemeanour committed by him, is contrary to natural justice, the fundamental laws of this realm, and the ancient established usage of Parliament, and is a high infringement of the liberties of the subject.' The motion was supported by the Duke of Devonshire, Lord Lovel, and the Earl of Cholmondeley, and was resisted as inopportune, and with much warmth, by Lords Gower and Talbot, and by the Earl of Halifax. It was carried against the previous question by 81 to 54.

The following protest is entered.

Because we think this question ought not to have been put at this time; for though the proposition contained in it is undoubtedly true in itself, yet we apprehend it to be no wise applicable to the point which had been so long debated the same day. For, we conceive, that public utility may render it necessary that a person should be removed from an office, and yet that removal cannot be deemed a punishment; for instance, in the case of incapacity. Surely then, wilful neglects, breach of duty, and evident malversation in an office, may justly require this great Council of State to present an humble address to his Majesty for the removal of any person guilty of such crimes, in order to prevent public detriment. And we cannot apprehend that the motion which occasioned the former debate, was by any means void of proofs, since the treaties and papers referred to (being as records in the possession of the House), and the notoriety of many facts alleged, were, in our opinion, equal to a cloud of witnesses. For these reasons, although we agree to the matter contained in the question, and, acting in our judicial capacity, would never err from the rules laid down in it, yet we cannot but wish the question had been laid aside, lest a wicked minister hereafter should think himself secure in his office, if he cannot be brought personally to

answer at the Bar of this House, and witnesses, *viva voce*, cannot be produced against him.

Francis Scott, Duke of **Buccleuch**.
 Thomas Mansel, Lord **Mansel**.
 Brownlow Cecil, Earl of **Exeter**.
 Henry Bowes Howard, Earl of **Berkshire**.
 Henry Howard, Earl of **Carlisle**.
 Montague Bertie, Earl of **Abingdon**.
 Richard Temple, Viscount **Cobham**.
 George Parker, Earl of **Macclesfield**.
 Richard Reynolds, Bishop of **Lincoln**.
 Richard Smallbrooke, Bishop of **Lichfield and Coventry**.
 Scroop Egerton, Duke of **Bridgwater**.
 Hugh Fortescue, Lord **Clinton**.
 John Campbell, Duke of **Greenwich** (Duke of **Argyll**).
 George Henry Lee, Earl of **Lichfield**.
 Maurice Thompson, Lord **Haversham**.
 George Montague, Earl of **Halifax**.
 Hugh Boscawen, Viscount **Falmouth**.
 Allen Bathurst, Lord **Bathurst**.
 John Fane, Earl of **Westmorland**.
 Heneage Finch, Earl of **Aylesford**.
 William Feilding, Earl of **Denbigh**.
 John St. John, Lord **St. John of Bletsoe**.
 John Montagu, Earl of **Sandwich**.
 William Talbot, Lord **Talbot**.
 John Ward, Lord **Ward**.
 John Leveson Gower, Lord **Gower**.
 Henry Somerset, Duke of **Beaufort**.
 Charles Bruce, Lord **Bruce of Whorlton**.
 John Russell, Duke of **Bedford**.
 Philip Dormer Stanhope, Earl of **Chesterfield**.
 Price Devereux, Viscount **Hereford**.
 John Hervey, Earl of **Bristol**.

CCCXXI.

FEBRUARY 26, 1741.

A fresh attempt was made to revive the question as to the presence of officers in the Lower House, analogous to the Bill which was passed so many times in the Commons, under the title of 'An Act to secure free and impartial proceedings in Parliament.' It was thrown out on a motion to commit it, by 63 to 44. There is no record of the debate, except a very meagre summary in the Secker MSS. It is probable that it was brought forward mainly to give publicity to the division and the protest following, which is headed by the Earls of Northampton, Shaftesbury, and Stanhope, and Lord Clinton.

1st, Because we conceive, that our Constitution itself points out this Bill, as one of its principal securities ; a due poise and independency of the three several constituent parts of the supreme legislative power being required by the spirit of our Constitution, and absolutely necessary to its existence. If any one of these becomes dependent on the other, the Constitution is dangerously altered ; but if any two become dependent on the third, it is totally subverted, and the wisest establishment that ever was formed of a free Government, shrinks and degenerates into a monarchical, an aristocratical, or a democratical faction. We therefore think we cannot be too careful in providing against whatever may, at any time, affect this just poise and necessary independency of the three estates. And this caution seems the more requisite now, when, from the inevitable variation of things, employments are become exceedingly numerous, and are yet further artfully split, divided, subdivided, and increased in value, in order to add both extent and weight to their influence. Two hundred employments are distributed in the present House of Commons ; a dangerous circumstance ; and which, if it could have been foretold to our ancestors, even in the latter end of the last century, the prediction would have been rejected by them as chimerical, or, if believed, lamented as fatal. And should the number of employments continue to increase in the same proportion, even we may live to see, for want of this Bill, a constant majority of placemen meeting under the name of a Parliament, to establish grievances instead of redressing them ; to approve implicitly the measures of a Court without information ; to support and screen the ministers they ought to control or punish, and to grant money without account, or it may be, without bounds. In which case, the remaining forms of our Constitution would, by creating a fatal delusion, become our greatest grievance.

2ndly, Though we do not absolutely assert, that employments necessarily must, yet we cannot suppose that they never will, influence the votes and conduct of the gentlemen of the House of Commons ; for such a supposition would be equally conclusive against all the Acts of Parliament now in force, limiting the number of officers of any kind in that House ; and, in a case of such importance, we think it would be the highest imprudence, to trust the very being of our Constitution to bare possibilities ;

especially if an experience (which we rather choose to hint at than enlarge upon) should give us just reason to suspect, that former Parliaments have felt the effects of this baneful influence, almost all persons in employments having voted invariably on the same side of the question, often against the known and signified sense of their constituents, and sometimes perhaps even contrary to their own private declarations; and no sooner did they presume to deviate from the ministerial track, than they were divested of those employments that failed of their intended influence. But, admitting that the present House of Commons has kept itself most untaintedly pure from such pollution, yet we think it necessary not to expose future Parliaments to such a trial, nor the Constitution to the uncertainty of the decision.

3rdly, Because, though it should be granted, that this Bill would have restrained in some degree the liberty of the electors, that objection has no weight upon this occasion, every law being, in some degree, a restraint upon the natural liberty of man, but yet justly enacted, wherever the good of the whole (which should be the object of every law) is promoted thereby; and we apprehend, that this restraint is of such a nature, that those only will be uneasy under it who intended to abuse the liberty. The votes of the electors of Great Britain, if unbiassed, would rarely concur in the choice of persons who were the avowed creatures of a minister, known dependants on a Court, and utterly unknown to those who elect them. But if, in an age when luxury invites corruption, and corruption feeds luxury, there is too much reason to fear, that the people may be prevailed upon, in many places by a pecuniary influence, to give their votes to those whom their uninfluenced sentiments would reject with indignation and contempt, we think it necessary to lay this just and constitutional restraint upon the liberties of some, as the only means to preserve the liberties of all. By former Acts of Parliament, the electors are already debarred from electing persons in certain considerable employments; and in the Act for preserving our Constitution, by settling the Crown upon the present royal family, it was enacted, 'That no person whatsoever in employment should be capable of being chosen a member of the House of Commons.' Such was then the spirit of liberty, that even this total exclusion could not be refused, nor could the repeal of it afterwards be obtained,

without enacting a limitation of placemen allowed to sit in the House of Commons, and a new election of every person who, whilst he was a member of that House, should accept of any employment under the Crown; as likewise a total (we wish we could say an effectual) exclusion of all persons holding employments erected since the passing of that Act. And there is no reason to doubt, but that the same spirit of precaution would, upon the same constitutional principles, have been carried much farther at that time, could it then have been foreseen or imagined, that the exclusion of some civil officers would have been rendered useless, by the introduction of so many military ones; and so many persons in employments, infinitely inferior, both in rank and profit, to those excluded by these several Acts, could ever have been by any means elected into Parliament. And, indeed, it seems to us highly incongruous, that inferior clerks, and attendants of offices, who have not seats in the presence of their masters, should be admitted to have seats in the legislature, and therefore become the check and control of their masters themselves.

4thly, Because we do not apprehend, that the freedom of Parliament is now in the least secured by the obligation laid upon all members of the House of Commons, who accept any employment under the Crown, of being re-elected, experience having shewn us, that this seeming security is for the most part become ineffectual, there being very few instances of persons failing in such re-elections, though utter strangers to their electors; and it is natural to suppose that, when the means of corrupting are greater, the success of the candidate recommending himself by corruption only will not be less.

5thly, Because we observe with concern, that a Bill of this nature has been already thrice rejected by this very House of Commons, and not been allowed to be committed, so as to have it known how far it was proposed to extend; which, in our opinion, implied a firm resolution not to admit of any further exclusion of employments whatsoever; whereas, in this last Session of this Parliament, this Bill was sent up to us, after having passed through all the forms of the other House without the least opposition. This, we conceive, can only proceed either from their conviction at last of the necessity of such a Bill, of which they are surely the properest judges, or in compliance with the almost

universal instructions of their constituents, whose voice, we think, ought to have some weight even here ; or, lastly, to delude their constituents themselves, by tacitly consenting to what they were either told, or hoped, this House will refuse. And in this case we apprehend, that a confidence so injurious and dishonourable, ought to have been disappointed from a just sense of the contempt thereby shewn of the credit, weight, and dignity of this House.

6thly, Because we think it particularly seasonable, so near the end of this Parliament, to provide for the freedom and independency of the next. And as we consider this opportunity as the only one we are likely to have, for some years at least, to do it, it is with the greater concern that we see this Bill laid aside, rather by a division than a debate, and by numbers rather than arguments. But however unsuccessful our endeavours have been for the future security of this Constitution ; however unavailing our desire of enquiring into past and present transactions ; however fruitless our attempts to prevent future mismanagements, by a censure of the past, and the removal of the author of them : we have at least this comfort of transmitting our names to posterity, as dissenting from those measures of which the present age sufficiently testifies its dislike, and of which the next may too probably feel the fatal consequences.

George Parker, Earl of **Macclesfield**.

Henry Howard, Earl of **Carlisle**.

Montague Bertie, Earl of **Abingdon**.

John Ward, Lord **Ward**.

Scroop Egerton, Duke of **Bridgwater**.

Samuel Masham, Lord **Masham**.

George Booth, Earl of **Warrington**.

John Campbell, Duke of **Greenwich** (Duke of **Argyll**).

Thomas Mansel, Lord **Mansel**.

William Talbot, Lord **Talbot**.

Charles Bruce, Lord **Bruce of Whorlton**.

George Montagu, Earl of **Halifax**.

Price Devereux, Viscount **Hereford**.

Richard Temple, Viscount **Cobham**.

John Leveson Gower, Lord **Gower**.

Maurice Thompson, Lord **Haversham**.

Richard Smallbrooke, Bishop of **Lichfield and Coventry**.

William Feilding, Earl of **Denbigh**.

Philip Dormer Stanhope, Earl of **Chesterfield**.

Heneage Finch, Earl of **Aylesford**.

For all the above reasons, except the last.

Thomas Foley, Lord Foley.

CCCXXII.

MARCH 9, 1741.

The following protest is inserted on the third reading of the Mutiny Bill.

Because it does not appear to us, that the forces which are now kept up within this realm, are to be employed to annoy our enemies abroad; and we are satisfied, the affections of the people to his Majesty and the Protestant succession are such, that there can be no occasion for them to keep this nation in awe.

Montague Bertie, Earl of Abingdon.

George Booth, Earl of Warrington.

Henry Howard, Earl of Carlisle.

Heneage Finch, Earl of Aylesford.

George Henry Lee, Earl of Lichfield.

CCCXXIII.

DECEMBER 22, 1741.

An address was moved for, asking the King to supply the House with papers bearing upon the relations of the Court with that of the Queen of Hungary (Maria Theresa), under the circumstances of the invasion of Silesia by Frederick the Great. For the circumstances connecting these events with Walpole's Administration, see Stanhope's History, chap. xxiii. It was proposed in this address, to insert words requiring letters written by the Administration to the British resident at Vienna, and his despatches. The proposal was negatived by 59 to 32, and the following protest inserted.

Because the leaving out those words in the motion invalidates the address to the greatest degree, by denying the necessary lights to see into affairs of the utmost concern to the nation, and transactions most probably in agitation between Great Britain and the Queen of Hungary, insomuch as there is neither matter nor means sufficient left to give his Majesty our best advice upon, although so graciously asked from the Throne at this critical conjuncture. Besides which, it is apparently putting such a check and restraint upon the privilege of the House of Peers in wording addresses to the King, as may prove of the utmost prejudice and loss to both, which the nation in general would in consequence be sufferers by,

should this be made use of by ministerial artifice or power, at any time to come, as a precedent to defeat or annul addresses of this kind, whereon the freedom and safety of his Majesty's person, and the Protestant succession and Government so eminently depend.

Maurice Thompson, Lord Haversham.

The same Peer objected to the omission of words requiring similar letters to and from the Court of France, and for the same reasons.

CCCXXIV.

JANUARY 28, 1742.

On the 27th of January, Lord Sandwich brought a motion before the House to the effect that many of the officers belonging to the garrison of Minorca were absent from their posts, and that while such an absence in the time of peace would be detrimental to military discipline, that 'the suffering them to be absent in time of war, at a juncture when the island of Minorca has been threatened by an invasion from the Spaniards, renders the possession of that important place precarious, and is highly injurious to the honour and interest of these Kingdoms.' Major General Anstruther, Lieutenant Governor of Minorca, was examined by order of the House on the 28th of January, and substantiated the facts. The motion, however, was negatived by 69 to 57, though an address was carried requesting the King to enforce the return of the officers to their post.

The following protest was entered on the rejection of Lord Sandwich's motion.

1st, Because we conceive, that as the fact stated in the former part of the question, appeared plainly from the paper laid before this House by the proper officer, and neither was nor could be controverted by any one Lord, the censure contained in the latter part of the question was not only just, but as gentle as so evident a neglect of so important a place, at so critical a time, could possibly allow. The principal, if not the only argument made use of by those Lords who opposed the motion was, 'That the censure was general, and pointed at no particular persons,' which we rather apprehend to be a proof of the justice and moderation of that censure, as it could then only light upon the guilty whoever they were; and we are inclined to believe, that had the censure been applied to any particular persons, the contrary argument would have been urged, and the injustice of a particular censure, without

proofs, sounded high, though possibly, at the same time, the necessary means of getting at those proofs might have been rendered difficult. That out of nineteen officers paid upon the establishment of Minorca, fourteen were absent, among whom were the governor, the deputy governor, and the governor of Fort St. Philip, was a fact disputed by none, though the slightest censure of it was opposed by the majority of the House. We therefore hope, that posterity, to whom we thus appeal, will not only approve of our conduct in this motion, but will likewise, from the ill success of it, find reasons to excuse our not attempting many others of the like nature.

2ndly, Because, when we consider the tender apprehensions of the Administration for the Island of Minorca, in the year 1740, when, upon information received, that a few troops were marching to the coasts of Catalonia, and a few Tartanes assembled in the Port of Barcelona, orders (possibly obscure from that precipitation which the emergency required) were sent to our admirals in the Mediterranean, to provide immediately for the defence of that island, 'even by going there with their whole force, if necessary;' by the execution or mistake of which orders, the Spanish squadron was suffered to sail from Cadiz to the West Indies, to the imminent danger of our fleets and possessions there; we cannot well account for that profound security in which the Administration seemed to be the last year, with regard to that valuable possession, when an embarkation of fourteen or fifteen thousand men, and above two hundred transport ships was publicly preparing at Barcelona, and consequently within eight-and-forty hours sail of Minorca, which embarkation soon after went undisturbed to Italy. But we fear this inconsistent conduct may give too much credit to insinuations lately scattered in the Public, that the British ministers were as secure that Minorca would not be attacked by the Spaniards, as the Spanish ministers were that their embarkation would sail to Italy undisturbed by our squadrons in the Mediterranean.

3rdly, Because it appears, that about the same time that Major General Anstruther left that island, by leave from the Secretary of War, which was on the 15th of February last, Admiral Haddock informs the Secretary of State, in a letter of the 10th of the same month, that by the latest letters from Mr. Consul Birtles, he mentions, 'That a Spanish embarkation is actually intended; and

though the first design was on a sudden dropped, the last intelligence declares the same to be renewed again; which information, we conceive, was sufficient to have excited greater apprehensions for the danger of that island, than seem to have been entertained, since no one step appears to have been taken thereupon for its defence, or any leave of absence re-called; but the whole Government was suffered to devolve to a lieutenant-colonel of one of the regiments there.

4thly, Because it appeared by the examination of Major General Anstruther at the Bar, that when he left Minorca about the 15th of February last, above 700 men were wanting to complete the regiments there, and near the same proportion of officers absent; that the private soldiers were so uneasy at having been there so long, that many destroyed themselves from despair, and many maimed themselves to get discharged; that should the island be attacked, the inhabitants would, in his opinion, certainly join the Spaniards; that in his opinion too, that island was always in danger when our enemies were superior in the Mediterranean, which has been for some time, and is still the case. All which circumstances concur to prove the danger, the neglect, and the justice of censuring such a neglect at such a time.

5thly, Because it was said in the debate by those whose high stations best enable them to know, 'That a general relaxation of Government, and abuses of this nature, were the vices of the present age.' A melancholy truth! which we conceive is so far from being an argument for impunity, that it evinces the necessity, at least, of censuring such as we can attain to the knowledge and proofs of. And indeed we have but too much reason to believe, that the several abuses committed in the several branches of the Government, unpunished at least, if not connived at, have already produced effects too sensibly felt by this nation; which abuses, from the nature of things, necessarily multiply themselves, and if not speedily checked, must soon forge a chain of reciprocal and criminal dependency, too strong for even the authority of this House to break, too heavy for the Constitution to bear.

6thly, Because the motion for an address, offered in lieu of this question, in which the same fact is stated in its full extent, but without the least censure annexed to it, is, in our opinion, not only unprecedented, but inconsistent with the honour and dignity of

this House, as it may seem calculated to screen the guilt it avows ; and as it may be thought to intimate future impunity for public crimes, if balanced by private ministerial merit ; artifice may elude inquiries, or prevent detection ; lenity may censure a crime, yet spare the criminal. But mankind, we fear, may be at a loss to account from what motives so criminal a neglect, fully stated, proved and admitted, could escape without censure ; or may ascribe it to such as would affect the reputation, and consequently lessen the authority of this House.

John Montagu, Earl of Sandwich.
John Fane, Earl of Westmorland.
George Montagu Dunk, Earl of Halifax.
John Campbell, Duke of Greenwich (Duke of Argyll).
Richard Temple, Viscount Cobham.
John Ward, Lord Ward.
Scroop Egerton, Duke of Bridgwater.
Sackville Tufton, Earl of Thanet.
Thomas Mansel, Lord Mansel.
Henry Howard, Earl of Carlisle.
Thomas Foley, Lord Foley.
Hugh Fortescue, Lord Clinton.
John St. John, Lord St. John of Bletsoe.
Allen Bathurst, Lord Bathurst.
Philip Dormer Stanhope, Earl of Chesterfield.
Anthony Ashley Cooper, Earl of Shaftesbury.
William Feilding, Earl of Denbigh.
Price Devereux, Viscount Hereford.
Edward Harley, Earl of Oxford and Mortimer.
Thomas Leigh, Lord Leigh.
James Compton, Earl of Northampton.
Brownlow Cecil, Earl of Exeter.
George Henry Lee, Earl of Lichfield.
Richard Reynolds, Bishop of Lincoln.
Henry Howard, Earl of Suffolk.
John Leveson Gower, Lord Gower.
Fulwar Craven, Lord Craven.
George Parker, Earl of Macclesfield.
Charles Bruce, Earl of Ailesbury.
William Talbot, Lord Talbot.
Henry Bowes Howard, Earl of Berkshire.
Maurice Thompson, Lord Haversham.
Heneage Finch, Earl of Aylesford.
John Russell, Duke of Bedford.
Henry Somerset, Duke of Beaufort.
William Graham, Earl Graham.
Hugh Boscawen, Viscount Falmouth.

John Berkeley, Lord Berkeley of Stratton.
 Richard Smallbrooke, Bishop of Lichfield and Coventry.
 Montague Bertie, Earl of Abingdon.
 Edward Bligh, Lord Clifton (Earl of Darnley).

CCCXXV.

MAY 25, 1742.

Walpole was created Earl of Orford on the 6th of February. His writ of summons is dated the 12th of February, and he took his seat in the Lords on the 18th of February. On the 9th of March, Lord Limerick moved in the House of Commons for a secret Committee to inquire into the conduct of affairs at home and abroad for the last twenty years. This was lost by 244 to 242. But on the 23rd of March, a motion for a Committee to inquire into the conduct of the Earl of Orford for the last ten years, was carried by 252 to 245. The members (21) were balloted for on the 29th of March, and were with two exceptions opponents of Walpole. The report (delayed by the obstinacy of Nicholas Paxton, Solicitor of the Treasury, who refused to answer questions put to him, and was thereupon committed to the Tower) was presented on the 13th of May.—See *Parliamentary History*, vol. xii, p. 628. The reason which induced Paxton and others to refuse evidence was the fear that they might criminate themselves. Hence Walpole's enemies pressed a Bill, for indemnifying such witnesses as might give evidence, through the House of Commons. The Bill which may be found in *Parliamentary History*, vol. xii, p. 638, was introduced on the 13th of May, and passed on the 19th of May by 214 to 186, closer divisions having been taken on every previous stage. The Bill was read a first time in the Lords on the 20th of May, but on the 25th was rejected on the motion for going into Committee on it, by 109 to 57, many of Walpole's most determined opponents speaking and voting against it. It appears from Tindal that the public were satisfied with the action of the Lords, notwithstanding the unpopularity of Walpole at the time. The Commons were indignant, and Lord Strange brought forward a motion on the 27th of May to the effect, that the conduct of the Lords was an obstruction to justice. The motion was lost by 245 to 193. A second report on the conduct of Walpole was presented on the 30th of June. It contained nothing of consequence, perhaps because Walpole was effectually shielded by Paxton and Scrope, the former Solicitor, the latter Secretary of the Treasury.

The rejection of the Bill elicited the following protest.

1st, Because the rejecting of this Bill, founded, as we conceive, upon reason and justice, warranted by precedents, authorised by necessity, and called for by the general voice of the nation, may appear a manifest obstruction to public justice, in the present great and important case, and a most certain defeat of it for the future, in all cases of the like nature.

2ndly, Because it is an uncontroverted maxim of the law of

England, that the public has a right to every man's evidence, and yet, by the same law, no man is obliged to accuse himself. And as the accomplices of guilt are frequently the only witnesses of it, we conceive, that both prudence and justice point out this method of impunity to some, as absolutely necessary towards discovering the guilt of others; and thereby dissolving those confederacies, which, formed by common guilt, can only subsist whilst they are cemented by common danger. From these undeniable principles we apprehend this Bill ought to have passed, in order to preserve the rights of the public, and the rights of individuals.

3rdly, Because this Bill is justified by many Bills of a much stronger nature, in cases of much less consequence to the public, such as the cases of Sir Thomas Cooke, the Masters in Chancery, Sir Robert Sutton, Thomson, and others; in some of which, the persons indemnified, in order to give their evidence, were, at the same time, compelled, under severe penalties, to give it. And as there is a power not only of indemnifying, but rewarding, necessarily lodged in the Crown, in order to bring criminals to justice, by evidence known to, and within the reach of the laws; so we apprehend, that in an inquiry after crimes, that may affect the being of the whole, the people have a right to the exertion of that power with which the legislature is undoubtedly vested, to come at such evidence as may make that inquiry effectual to their future security.

4thly, Because the legislature has exercised this power in many instances, relating to particular branches of the revenue, in order to prevent frauds, the persons concerned in such frauds being not only indemnified, but rewarded also; and for the private utility of one Company, the Legislature, by the 9th of King George I, after forbidding any person to be concerned in promoting an East India Company in the Austrian Netherlands, gives to our East India Company a power to prosecute, by Bill in Chancery, or Court of Exchequer, any person whom they shall suspect, obliging such person to make discovery upon oath, though such discovery subjects him to a forfeiture. As also for the better discovery of felonies the legislature has thought fit by an Act, of the 5th of Queen Anne, to pardon any person not only of the felony discovered, but of all other felonies he has ever been guilty of, upon his making a discovery of two persons who shall thereupon be convicted of any

burglary or felony, and that discoverer is also entitled to a reward.

5thly, Because the rejecting this Bill may prove a dangerous precedent of fatal consequence to this Constitution, since, whenever this nation shall be visited by a wicked minister, those who shall have served him in defrauding and oppressing the public, and in corrupting individuals, will be furnished with an excuse for refusing their evidence, their danger will produce his security, and he may enjoy with safety the plunder of his country. Nay, we even apprehend, that the rejecting of this Bill may be misunderstood by those who can make any discovery, as if this House designed to discourage any evidence whatsoever, that could affect the person whose conduct the Secret Committee was appointed, by the House of Commons, to inquire into. A minister may be removed from his place, and not from his power; he may be removed from both, and not from the favour of his Prince; nay, he may be deprived of all three, and yet his successor may think his interest and future safety, and his Prince may imagine his authority, concerned in protecting him from either punishment or inquiry. In any of which cases all written evidence, all office proofs, will be secreted or refused: and if verbal evidence be rendered impracticable too (which the rejecting of this Bill will furnish a precedent for) we conceive we might as well have passed an Act of Indemnity to all future ministers.

6thly, Because we can by no means agree to the argument principally urged against this Bill, 'that there were not proofs of guilt against this person sufficient to justify the passing it;' whereas, in our humble opinions, the voice of the nation, the sense of the other House, and the lamentable situation of this Kingdom, both at home and abroad, create suspicions which not only justify, but even call aloud for inquiry; which inquiry must necessarily prove ineffectual, unless the proper methods are taken to support it, of which we apprehend this Bill to be one, and a proceeding so just, that no innocent man would desire to avoid it, and no guilty one ought to escape it. Moreover the reasons assigned by the persons whose behaviour gave rise to this Bill, for refusing their evidence, is a sufficient implication that it would affect the Earl of Orford, since they admit it would affect themselves.

7thly, Because we conceive that the rejecting this Bill may

create great disaffection in the nation, to the diminution of the credit, and consequently of the authority of this House, when the people find themselves disappointed in their just expectations of having a strict inquiry made into the conduct of the Earl of Orford, which they have so long called for in vain, and hoped they had at last obtained. Groaning under the undiminished load of national debts and taxes, notwithstanding a long peace; trembling under the terrors of multiplied penal laws; deploring their sacrificed honour, and their neglected interest; the balance of Europe overturned abroad, and the Constitution endangered at home; they call for inquiry; they seek for justice; they hope for redress. The other House has taken the proper steps to answer these expectations; the inquiry begun there could only have been rendered effectual in one material point by this Bill; which being rejected by this House, from whence they expect justice and redress, we fear their blasted hopes, which, for a time, may seem sunk into a slavish despondency, may at last break out into disorders, more easy, possibly, to foresee than to remedy.

Edward Harley, Earl of Oxford and Mortimer.

William Feilding, Earl of Denbigh.

Heneage Finch, Earl of Aylesford.

Montague Bertie, Earl of Abingdon.

William Coventry, Earl of Coventry.

John Russell, Duke of Bedford.

John Campbell, Duke of Greenwich (Duke of Argyll).

Philip Dormer Stanhope, Earl of Chesterfield.

Henry Howard, Earl of Carlisle.

John Fane, Earl of Westmorland.

Allen Bathurst, Lord Bathurst.

Lewis Watson, Earl of Rockingham.

Henry Bowes Howard, Earl of Berkshire.

Richard Temple, Viscount Cobham.

Richard Reynolds, Bishop of Lincoln.

Charles Bruce, Earl of Ailesbury and Elgin.

Thomas Foley, Lord Foley.

John Ward, Lord Ward.

John Boyle, Lord Boyle (Earl of Orrery).

John Leveson Gower, Lord Gower.

George Montagu Dunk, Earl of Halifax.

Hugh Boscawen, Viscount Falmouth.

John Montagu, Earl of Sandwich.

Henry Somerset, Duke of Beaufort.

John St John, Lord St. John of Bletsoe.

James Compton, Earl of Northampton.

Anthony Ashley Cooper, Earl of **Shaftesbury**.
Fulwar Craven, Lord **Craven**.
George Henry Lee, Earl of **Lichfield**.
Thomas Leigh, Lord **Leigh**.
Price Devereux, Viscount **Hereford**.
Maurice Thompson, Lord **Haversham**.

CCCXXVI.

FEBRUARY 1, 1743.

The Speech from the Throne on the 16th of November, contained a statement that troops had been sent into Flanders in order to support the House of Austria, and to restore and secure the balance of power ; that moreover the King had raised a force of 16,000 Hanoverians in addition to Hessians in the British pay, and that he hoped he should have the assistance of Parliament in these measures. The expedition to Holland under the command of Lord Stair was a failure, and the raising of the Hanoverian troops (hints being given that the British Parliament should find them pay and supplies) was exceedingly unpopular. This pay, £657,000, was moved for on the 10th of December, by Sir William Yonge, and carried by 260 to 193. In the Lords, Lord Bath (Pulteney) defended the grant. Walpole was absent. The motion deprecating the levy and use of these troops, introduced by Earl Stanhope, was rejected by 90 to 35.

It produced the following protest, the protest being headed by Lord Gower, Privy Seal, and Viscount Cobham.

1st, Because we apprehend, that the assembling an army in Flanders last year, without the concurrence of the States General, was a measure not only unwarranted by any advice or consent of Parliament, but directly repugnant to the declared sense of the House of Commons in their resolution of the 23rd of March last ; it not appearing to us, that any one power, engaged by treaty, or bound by interest to support the Queen of Hungary, except England alone, had come in to give her any assistance, or to co-operate with us in any plan to which an army in Flanders could be supposed to conduce ; and therefore the support then promised by that House to his Majesty, upon an express conditional supposition of being joined by such other Powers, is so far from authorising a measure entered upon in circumstances totally different, that it plainly points out the opinion of Parliament against such an undertaking.

2ndly, Because the taking 16,000 Hanoverians into the service of Great Britain, to act in conjunction with the English forces

assembled in Flanders, without consulting the Parliament upon an affair of such an important and delicate nature (although it was foreseen and pointed out by the King to both Houses of Parliament at the close of the last Session, and is expressly referred to in his Majesty's Speech at the opening of this) seems to us highly derogatory to the rights, honour, and dignity of the great Council of the nation, and a very dangerous precedent to future times.

3rdly, Because the restoring the balance of power in Europe, by raising the House of Austria to its former condition of influence, dominion, and strength, is an object quite unattainable by the arms of Great Britain alone. And for the attaining of which, no other Power has joined, or is likely to join with us in any offensive engagements, either against the Emperor, or against France.

4thly, Because such assistance to the Queen of Hungary, as the situation of her affairs, and that of Europe, as well as the particular interest and policy of this island require, would have been more properly given in money, with much less expense and danger to us, with much more effect and advantage to our ally. The 38,000 men, now said to be paid for her service, costs this nation £1,400,000, one-half of which sum would have enabled her to maintain a greater number of men, capable of acting wherever her affairs might require; so that above £700,000 seems to be wantonly lavished away upon this occasion, besides the lives of many of the subjects of Great Britain.

5thly, Because we apprehend, that the troops of the Elector of Hanover cannot be employed to act in Germany against the head of the Empire, whose title and cause have been avowed by the whole body, in granting him an aid of fifty Roman months for his support in this very war, without incurring the risk of such consequences upon any ill success, as neither consist with the safety of Hanover, nor with the prudence of England; in which apprehension we are strongly confirmed by those troops not having acted in opposition to Marshal Maillebois, at a juncture of time when such an assistance, given to the Queen of Hungary, might have been decisive; and for losing which opportunity, no other natural or probable reason appears.

6thly, Because the assembling an army in Flanders, not then attacked by the French, nor, as it appears to us, in any danger of being attacked, could be of no use to the power we designed to

assist, nor give any hindrance or terror to France, with regard to the designs she was then pursuing ; but may, in its future consequences, probably tend to draw the arms of that Crown into those parts, where they can act with the greatest advantage, and engage this nation as principals in a land war, the expense and danger of which are much more certain and evident, than the support we shall find in it from other Powers, or the means we shall have of carrying it on.

7thly, Because we observed, with the utmost concern, that while Great Britain is exhausting itself, almost to ruin, in pursuance of schemes pretended to be founded on our engagements to the Queen of Hungary, the Electorate of Hanover, though under the same engagements, as well as under the same Prince, does not appear to contribute any things as an ally to her assistance, but is paid by Great Britain for all the forces it has now in the field ; and the bargain made for those forces, is much more disadvantageous to us, than what we concluded with that Electorate in the year 1702. For, in the Convention, then signed, there is no stipulation, either for levy money, or for recruit money, with both which we are charged in the present demand, besides other extraordinary articles ; and we conceive, that the article of the levy money, amounting alone to no less a sum than £139,313, is a more particular hardship upon us, because it is known to all the world, that the 16,000 men were not levied at the request, nor for the service of England ; but that the only addition made to the usual establishment of the electoral forces in time of peace, was 6000 men raised some time before, upon the death of the late Emperor, and for the service of his Majesty's German dominions ; nor can we help observing, that when we contracted for Hanover troops in June, 1702, their pay did not commence till the beginning of that very month in which some had already taken the field, and the rest were actually upon their march ; so that the contract being only to the 1st of January following, England received the benefit of the service of those troops during a whole campaign, for the pay of seven months only ; whereas, by now taking those troops into pay, on the 31st of August, 1742 (that is a month before they began their march into Flanders) till the 26th day of December, 1743, we shall give them sixteen months pay for the service of one campaign only, if they should ever make a campaign at all ; so that Hanover not only

receives the great and immediate profit of this advantageous bargain, but is also exonerated of above half the number of forces, which it used to maintain in times of the most profound tranquillity.

8thly, Because the making so unnecessary a bargain, in so very unthrifty a manner, when this nation is groaning under so heavy a load of debts and taxes, engaged in a maritime war, at a mighty expense, and with doubtful success, maintaining a great national army abroad, and at the same time burthened at home with 23,000 men (the use of which we cannot discover) over and above 11,550 marines, excites in our minds the most alarming and melancholy apprehensions of the dissatisfaction and jealousy that may arise in the breasts of his Majesty's most faithful subjects, if ever the servile ambition of any minister should attempt to gain, and to taint the Royal ear, by a mistaken adulation to imagined partiality (which we are persuaded does not, and cannot exist) in the behalf of an interest, foreign to that of this Kingdom. Were it ever to be suspected from any new and surprising appearances, that this nation could be engaged in the most expensive, chimerical, and dangerous schemes, entered into without the advice or approbation of Parliament; that its treasure could be exhausted, its honour exposed, and its safety risked, for no other end than to advance that foreign interest, and make such a compliance the price of favour and power; we are convinced it would be attended with more alienation of the hearts of the people from his Majesty's person and family, than almost any other mismanagement could ever produce. We therefore think it the highest duty we owe to our King and country, to enter our timely protest against the approach of so fatal a mischief, to deprecate the pernicious effects of it in the most solemn manner we can, and to express our earnest desire, that this motion had been complied with, in order to stop an evil in its beginnings, by the prudent and salutary intervention of the House of Parliament, which by the increasing corruption of ministers, may be extended so far, as either to throw this nation into the greatest disorders, or reduce it to a state of the meanest dependency.

Philip Dormer Stanhope, Earl of **Chesterfield**.

William Feilding, Earl of **Denbigh**.

Philip Stanhope, Earl **Stanhope**.

John St. John, Lord **St. John of Bletsae**.

Edward Harley, Earl of **Oxford and Mortimer**.

Price Devereux, Viscount **Hereford**.

Lewis Watson, Earl of **Rockingham**.
 Scroop Egerton, Duke of **Bridgwater**.
 Fulwar Craven, Lord **Craven**.
 Herbert Windsor, Lord **Montjoy** (Viscount Windsor).
 William Talbot, Lord **Talbot**.
 James Compton, Earl of **Northampton**.
 John Fane, Earl of **Westmorland**.
 Montague Bertie, Earl of **Abingdon**.
 John Montagu, Earl of **Sandwich**.
 Charles Bruce, Earl of **Ailesbury**.
 Heneage Finch, Earl of **Aylesford**.
 William Coventry, Earl of **Coventry**.
 Henry Somerset, Duke of **Beaufort**.
 John Russell, Duke of **Bedford**.
 George Henry Lee, Earl of **Lichfield**.
 Thomas Foley, Lord **Foley**.
 Anthony Ashley Cooper, Earl of **Shaftesbury**.
 Maurice Thompson, Lord **Haversham**.

CCCXXVII.

FEBRUARY 25, 1743.

The Gin Act of 1731, imposing a duty of 20s. on every gallon of gin, with the intention of prohibiting its use, had been systematically violated. As the expenses of the war compelled the Administration to look out for revenue, a Bill was introduced repealing the Act of 1731, and substituting moderate excise and license duties in its place. The Bill reached the Lords on the 15th of February, and was read a second time on the 22nd of February, when it was opposed by Lord Hervey and others, but was committed by 82 to 54, all the bishops present voting against it. It was read a third time, and passed by 82 to 55, on the 25th of February. The debates are given in *Parliamentary History*, vol. xii, p. 1191-1439. A proposal to charge a tax on ale-houses, at a scale graduated according to rent, was laid before the House of Commons as early as 1712 by a Mr. Phipps. See *Bromley's Papers*, Bodleian Library, vol. iii, Nos. 139, 180.

The following protest, headed by the Archbishop of Canterbury, the Bishops of London, Exeter, Norwich, Bristol, St. Asaph, Gloucester, Salisbury, Oxford, and Chichester, and by Lords Stanhope, Romney, Aylesford, Gower, and the Duke of Beaufort was inserted.

1st, Because the Act of the 9th of his present Majesty, made to prevent the excessive drinking of spirituous liquors, which is by this Bill to be repealed declares 'that the drinking of spirituous liquors or strong waters is becoming very common, especially among the people of lower and inferior rank, the constant and excessive use whereof tends greatly to the destruction of their healths, rendering them unfit for useful labour and business,

debauching their morals, and inciting them to perpetrate all manner of vices, and the ill consequences of the excessive use of such liquors are not confined to the present generation, but extend to future ages, and tend to the devastation and ruin of this Kingdom.' We therefore apprehend, that if an Act, designed to remedy such indisputable mischiefs, was not found adequate to its salutary intention, the wisdom of the legislature ought to have examined its imperfection, and supplied its defect, and not have rescinded it by a law authorising the manifold calamities it was intended to prevent.

2ndly, Because the refusing to admit the most eminent physicians, to give their opinions of the fatal consequences of these poisonous liquors, may be construed without doubt as a resolution on this House to suppress all authentic information of the pernicious effects on the health and morals of mankind, which will necessarily flow from the unrestrained licentiousness permitted by this Bill.

3rdly, Because as it is the inherent duty of every legislature to be watchful in protecting the lives and preserving the morals of the people; so the availing itself of the vices, debaucheries, and consequential misery and destruction of millions is a manifest invasion of the fundamental principles of national polity, and contrariant to these social emoluments for which Government alone is instituted.

4thly, Because the opulence and power of a nation depends on the numbers, vigour and industry of its people, and its liberty and happiness on their temperance and morality, to all which this Bill threatens destruction by authorising 50,000 houses (the number admitted in the debate) to retail a poison, which by universal experience, is known to debilitate the strong and destroy the weak; to extinguish industry, and to inflame those intoxicated by its malignant efficacy to perpetrate the most heinous crimes. For what confusion and calamities may not be expected, when near a twentieth part of the houses of this Kingdom shall be converted into seminaries of drunkenness and profligacy, authorised and protected by the legislative power? And as we conceive the contributions to be paid by these infamous houses and the money to be raised by this destructive project, are considerations highly unworthy the attention of Parliament when compared with

the extensive evils from thence arising; so we are of opinion that if the real exigencies of the public required raising the immense sums this year granted, they could by no means palliate the having recourse to a supply, founded on the indulgence of debauchery, the encouragement of crimes, and the destruction of the human race.

John Montagu, Earl of Sandwich.
 Maurice Thompson, Lord Haversham.
 John Hervey, Earl of Bristol.
 Philip Dormer Stanhope, Earl of Chesterfield.
 George Montague Dunk, Earl of Halifax.
 Charles Bruce, Earl of Ailesbury.
 William Talbot, Lord Talbot.

We dissent for the above reasons except the second.

John Russell, Duke of Bedford.
 Edward Harley, Earl of Oxford and Mortimer.
 John Ward, Lord Ward.

CCCXXVIII.

DECEMBER 9, 1743.

The Session began on the 1st of December, when the King read his Speech. On the 6th of December, a motion was made in the House of Commons by Mr. Edmund Waller, member of Chipping Wycomb, Bucks., 'That an humble address be presented to his Majesty, that he will be graciously pleased to give orders and directions that the 16,000 Hanoverians, now in the pay of Great Britain, be no longer continued in the service of this nation after the 25th of December.' The motion was negatived by 231 to 181. On the 9th of December, Lord Sandwich made the same motion in the Lords, when the motion was negatived by 71 to 36. The following protest, according to Philip Yorke, contains the substance of Lord Chesterfield's speech, and was probably written by him.

1st, Because we conceive, that the reasons assigned in the question, not only justified, but called for that question, as a proper and necessary exercise of the inherent right of this House to advise the Crown; and we are convinced, that such jealousies and animosities have arisen, and will continue between the troops of Great Britain and those of Hanover, that they can no longer act together, without evident danger of the most pernicious and fatal consequences.

2ndly, Because this our conviction is founded upon the most

public and universal notoriety, first transmitted from the army abroad, then confirmed without doors, by the unanimous and concurrent accounts of all the officers that are returned from them; and now uncontradicted by any of those noble Lords who had the honour of serving the last campaign, and who were appealed to for the truth of this proposition, while the question was under our consideration; a silence, which, we apprehend, amounts to a demonstration of the truth of the facts alleged.

3rdly, Because an army divided against itself, in such a manner as ours will certainly be, if the sixteen thousand Hanoverians are still to continue a part of it, can give no strength to whatever allies we have, no terror to our enemies, but must greatly obstruct, and probably defeat the success of any operation or service in which it can be employed.

4thly, Because the incompatibility of the British and Hanoverian troops being known to all Europe, nothing can be a greater inducement to the Queen of Hungary and the King of Sardinia to quit our alliance, and make a separate peace for themselves, than if they should find that, instead of a real and effectual support, we are resolved to give the name of an army only; which, from the above-mentioned reasons, they must be sure cannot co-operate in any plan for their service, or the benefit of the common cause.

5thly, Because we apprehend, that were it necessary, there would be no difficulty in replacing the Hanover troops with sixteen thousand others, at least as good, and as cheap, and not liable to the same, or any other objections from other states, who would be very willing to treat with us about such a bargain. Nay, we conceive, that this number might, without any danger, be, in a great degree, supplied by our national troops now in Great Britain, and still leave more for the defence of the Kingdom at home, than were kept here at any time during the last war. And we can discover no good reason, in our present burthened and exhausted condition, for keeping a number of national troops useless at home, and paying at the same time so considerable a number of useless mercenaries abroad.

6thly, Because the willingness of the States General of the United Provinces, or any other Power in Europe, to enter into a closer conjunction with us, at this critical time, must chiefly depend upon the idea they shall conceive of the state of this

nation at home, especially with regard to the greater or lesser degree of union and harmony, which shall appear to subsist between his Majesty and his people in these his regal dominions. And it is known all over Europe, how much discontent and dissatisfaction the taking these sixteen thousand Hanover troops into the pay of Great Britain, together with the many unhappy and mortifying circumstances that have attended that measure, has universally raised in this Kingdom; and how much reason there is to apprehend an increase of that dissatisfaction, if it should be a determined measure of Government, to continue so odious a burden upon the nation, not only without any advantage, but with the most visible danger to the service abroad.

7thly, Because we conceive it to be as much the duty, as it is the right of the Peers of this Realm, who are hereditary counsellors to the King, and mediators between the Crown and the people, to interpose their timely advice against such measures, as are calculated, in our opinions, for the private views of particular people only, and have a manifest tendency to alienate the love of the nation in general from this royal family, which we will always support with true English hearts, and with such counsels, as we do in our consciences think the most conducive to their glory, and to maintain and preserve the honour and dignity of that British Crown, to which alone we owe our allegiance.

8thly, Because we know there are some partialities almost inseparable from human nature, and blameless in themselves, when acting within their proper bounds, which yet must have a most fatal influence, if encouraged to mix themselves with the affairs of this nation, either in the council, or in the camp; and we do, from our souls, scorn and abominate that most abject and criminal adulation, which either gives way to, or inflames such partialities, in prejudice to the national honour and interest of our country. We thought it therefore necessary, to enter these our reasons against the further continuance of these mercenaries, which for one campaign only, have already cost this nation nearly seven hundred thousand pounds, and which appear to us to have been, in many instances, disobedient to British orders, and utterly incompatible with British troops; that, as our votes have, we hope, proved

us to the present age, our names in the books may transmit us to posterity Englishmen.

Charles Spencer Churchill, Duke of **Marlborough**.
 Charles Bruce, Earl of **Ailesbury** and **Elgin**.
 Philip Stanhope, Earl **Stanhope**.
 James Compton, Earl of **Northampton**.
 Lewis Watson, Earl of **Rockingham**.
 Anthony Ashley Cooper, Earl of **Shaftesbury**.
 William Talbot, Lord **Talbot**.
 John Montagu, Earl of **Sandwich**.
 Maurice Thompson, Lord **Haversham**.
 Price Devereux, Viscount **Hereford**.
 Thomas Foley, Lord **Foley**.
 Philip Dormer Stanhope, Earl of **Chesterfield**.
 Willoughby Bertie, Earl of **Abingdon**.
 John Russell, Duke of **Bedford**.
 Sackville Tufton, Earl of **Thanet**.
 George Henry Lee, Earl of **Lichfield**.
 John Leveson Gower, Lord **Gower**.
 Scroop Egerton, Duke of **Bridgwater**.
 William Feilding, Earl of **Denbigh**.
 Theophilus Hastings, Earl of **Huntingdon**.
 Samuel Masham, Lord **Masham**.
 John Fane, Earl of **Westmorland**.
 Thomas Mansel, Lord **Mansel**.
 William Coventry, Earl of **Coventry**.
 Henry Somerset, Duke of **Beaufort**.

CCCXXIX.

JANUARY 31, 1744.

On the 19th of January, Mr. Francis Fane reported to the House of Commons the following resolution of the Committee of Supply, 'that £393,773 6s. 1d. be granted to the King for defraying the charge of 5,513 horse, and 10,755 Hanoverian troops, from the 26th of December, 1743, to the 25th of December, 1744.' The grant was carried by 271 to 226, Walpole using every effort with his old friends in order to secure the grant. In the Lords, on the 31st of January, Lord Sandwich moved, 'that in the opinion of this House, the continuing the 16,000 Hanoverians in the pay of Great Britain is prejudicial to the true interest of his Majesty, and dangerous to the welfare and tranquillity of this nation.' After debate (Parliamentary History, vol. xiii, p. 505), the motion was negatived by 86 to 41.

The following protest was inserted.

1st, Because we conceive, that the demand made in the estimates for the continuance of the sixteen thousand Hanoverians in the

pay of Great Britain for the ensuing year, rendered the interposition of this House against so fatal a measure the more necessary, inasmuch as it seemed now to be the only means left to prevent it.

2ndly, Because we apprehend, that every national purpose, pretended to be answered by these Hanoverians, may be more effectually served by an equal number of troops, supposing such a number to be necessary, free from the same objections; either of foreign mercenaries, who will thereby be prevented from engaging with our enemies (of which the Hanoverians, when unpaid by us, cannot, we assure ourselves, be suspected), or, at least (which is evidently practicable, even at this time), partly of mercenaries, and partly out of the great and extraordinary establishment of national troops now in this Kingdom.

3rdly, Because it appears to us, that these Hanoverians, though in the pay, can hardly be said to have been in the service of this nation. Some refused to form in the first line at the battle of Dettingen, and retired to the second; others refused to obey the orders of the British General, and march in the pursuit of the enemy after the battle; and the greatest number of them, who, together with some of the British Guards, composed what was called the rear-guard, under the command of a Hanoverian lieutenant-general, took a different route in the march from the rest of the army from Aschaffenburg; and such a one as not only rendered them wholly useless to the army, when the French attacked us in front, but would have rendered them equally useless, if the French from Aschaffenburg (where we left the passage open to them) had attacked us in the rear, in which it was pretended that these troops were left, as in the post of honour: nay, not contented to avoid being of any use, either in the front or in the rear, but determined to be of use nowhere, they halted as soon as they came within sight and reach of the battle, though pressed by the British officer, and invited by the ardour of the British soldiers to share the glory, and complete, as they might have done, the victory of the day. These facts (together with many others which we omit) asserted in the debate in presence of many Lords of this House, who served in the last campaign, denied by none of them, and confirmed in general by a noble Duke of the highest rank and character, prove, as we conceive, these troops to be useless, at least

if action be intended ; and we will not represent, even to ourselves, what reasons there can be for demanding them, if action be not intended.

4thly, Because, if, as it was insinuated in the debate, other mercenaries could not be relied on, as belonging to princes of the Empire, inclined to or engaged with our enemies, these Hanoverians would, as we conceive in consequence, be useless to the common cause ; since it would be in the power of those very Princes, by only marching their troops into proper places, to recall these mercenaries from us, and confine them to the defence of their own Electorate, or disarm them at least, by a second neutrality.

5thly, Because it has not been pretended, that the Administration has so much as endeavoured to obtain any other foreign troops whatsoever, notwithstanding the long notoriety of the universal and deeply-rooted dissatisfaction of the nation at the present measure ; a neglect so unaccountable and surprising to us, that we fear the nation will either suspect that we are to have no other troops, than believe that no others are to be had.

6thly, Because we conceive, that the future co-operation of our national troops with these mercenaries has been rendered impracticable, and even their meeting dangerous. We think it, therefore, indispensably incumbent upon us, to remove the object that occasioned the many instances of partiality, by which the Hanoverians were unhappily distinguished, and our brave fellow-subjects, the British forces, undeservedly discouraged. The constant preference in quarters, forage, &c., we wish no occasion had been given to remember ; but we cannot pass over in silence the Hanoverian guards having for some days done duty upon his Majesty at Aschaffenburg, which we look upon as the highest dishonour to his Majesty and this nation, and are therefore astonished to observe an unusual, and, to every other purpose, useless proportion of Hanover guards continued upon the estimate.

7thly, Because we apprehend, that the argument urged in opposition to this question, namely, 'that the withdrawing these sixteen thousand obnoxious mercenaries would be weakening our army in the next campaign, alarm our allies, and encourage our enemies,' is fully obviated by the methods we have mentioned above, of replacing them ; some, if not all of which (notwithstanding the, to us, unaccountable negligence of the Administration) are still

undeniably practicable. Nor can we conceive, in any case, that the removing the causes of discord and division tends to the weakening of that body from whence they are removed; and we are of opinion, that our allies would not (whatever our enemies might) regret the loss of these troops the next year, which, by experience, they found so useless the last.

8thly, Because we apprehend, that the most fatal consequences must ensue, should this nation be once possessed with an opinion, that the discouragements and mortifications which our fellow subjects of the army have received abroad, were derived from any distrust or dislike of the British nation. We are far from entertaining any such opinion, though some degree of foreign partiality may indeed have given occasion to these discouragements and mortifications; though we cannot help ascribing them likewise to some abject flattery, and criminal misrepresentation, which this partiality, blameless in itself, has unhappily given occasion to; and by which, in its turn, it has been fomented. But how groundless soever such an opinion may be, it may still prevail, and the appearances we lament, may produce the effects we dread. The motives to that concern, that have been expressed in this House, and the loud dissatisfaction that has been expressed everywhere else, are in themselves of great importance, and such as would deserve, even if they stood alone, the serious consideration and seasonable interposition of this House. But we confess, that they appear to us still more important, when we consider them relatively to things of the same nature, less apparent, indeed, but equally real, and more detrimental, perhaps, if not more dishonourable to this nation; for more dishonourable they may be thought, if a continued principle of conduct, whereby the interests of one country are carried on in subordination to those of another, constitutes the true and mortifying definition of a Province. We will not here call to memory any former measures of this kind, nor recapitulate all the instances that might be given, wherein the blood and treasure of this nation have been lavishly employed, when no one British interest, and, as we conceive, some foreign interest alone, was concerned. Some of these instances were touched in the debate, most of them are well known, and all of them are at this time, by the course of events, manifested to public view. The former were long hid and disguised under

political veils, the present could not by their nature be so; they are such as strike every one equally, from the highest officer to the common soldier, and carry along with them not only their own weight, but the weight of all those that preceded them. They are such, therefore, in our opinions, as must affect, in the most fatal manner, both the peace of his Majesty and his royal family, and the common cause in which we are now and may hereafter be engaged. The present royal family was justly called to the Throne of Great Britain, in order to secure to us our civil and religious rights, and to remove every false and foreign bias from our Administration. The happiness and security therefore, of both King and people, consists in the inseparable union of all these interests, with the interest of the Crown. In a just confidence, that these national views were those of the present royal family, this nation has done every thing that could engage them to adhere to them; and has given to his late and present Majesty far greater sums than ever were given, in similar circumstances, to any of their royal predecessors. Whoever goes about to sever the interests of the Crown from any national interests, is an enemy to both; and every measure that does so, tends to destroy both. It is to guard against such attempts, that our zeal for our King and country exerts itself on this great occasion, as our most earnest desire is, that his Majesty's Throne should be established in the hearts of his people; and as we are struck with horror at every object that can alienate his affections from them, or theirs from him. How much these unfortunate circumstances have already weakened the natural influence of Great Britain in pursuit of the common cause of Europe, is but too apparent in fact, and could not be otherwise in the nature of things. Great Britain is a powerful Kingdom, and whenever she has acted in her true character, and aimed at that great and noble view alone of maintaining a balance between the Powers of Europe, for the common interest of all, the effects have been answerable to the cause, and her influence in Germany, saved by her arms, and supported by her treasures in the last wars, was, as it ought to be, and as it has been everywhere else, superior. But should it ever appear that an inferior German principality is really, and Great Britain only nominally, the director and actor, such a change in the cause must necessarily produce a deplorable difference in the effect; and Hanover, that can neither

give strength nor consideration to Great Britain, may thus diminish the one, and take the other wholly away.

Peregrine Bertie, Duke of **Ancaſter** (Grand Chamberlain).
 John Fane, Earl of **Westmorland**.
 Harry Grey, Earl of **Stamford**.
 John Montagu, Earl of **Sandwich**.
 Anthony Ashley Cooper, Earl of **Shaftesbury**.
 William Talbot, Lord **Talbot**.
 Sackville Tufton, Earl of **Thanet**.
 Herbert Windsor, Lord **Montjoy** (Viscount Windsor).
 William Coventry, Earl of **Coventry**.
 George Montagu Dunk, Earl of **Halifax**.
 Scroop Egerton, Duke of **Bridgwater**.
 William Feilding, Earl of **Denbigh**.
 John Leveson Gower, Lord **Gower**.
 Charles Bruce, Earl of **Ailesbury**.
 Philip Dormer Stanhope, Earl of **Chesterfield**.
 George Henry Lee, Earl of **Lichfield**.
 John Boyle, Lord **Boyle** (Earl of Orrery).
 John Russell, Duke of **Bedford**.
 Edward Harley, Earl of **Oxford and Mortimer**.
 John Hervey, Lord **Hervey**.
 Willoughby Bertie, Earl of **Abingdon**.
 William Wentworth, Earl of **Strafford**.
 Henry Somerset, Duke of **Beaufort**.
 Theophilus Hastings, Earl of **Huntingdon**.

CCCCXX.

APRIL 27, 1744.

On the 20th of March, the King of France declared war against England. On the 31st of March, the King of England retaliated, and on the 4th of April communicated the fact to Parliament, stating that France had long designed the invasion of the realm, in favour of a Popish Pretender. Among other precautions, a Bill was introduced making it treason to correspond with the Pretender, or his sons, and modifying certain clauses in 7 Anne, chap. 21, which limited the effect of attainders to three years after the decease of the old Pretender. The Bill passed the Commons readily, but was opposed in the Lords in going into Committee, on the proposal to extend the disabilities of the Act during the lifetime of the Pretender's sons. The clause was carried without a division, and the Bill, 17 George II, chap. 39, received the royal assent on the 12th of May.

The following protest was inserted.

1st, Because this addition to this Bill enacts the continuation of a punishment, which, though it may have prevailed at times, in this and other countries, we conceive to be directly contrary to the

first principles of natural justice, it being an uncontested maxim, that the innocent ought not to suffer for the sake of the guilty, where, by the nature of the thing, it is possible to prevent it.

2ndly, Because involving the innocent in the punishment of the guilty, is wholly inconsistent with that spirit of justice and lenity that distinguishes our law; and which says, 'It is better, that ten guilty persons should escape, than that one innocent one should suffer.'

3rdly, Because we conceive, that the postponing the operation of that clause, in Act 7 of Queen Anne, till the death of the Pretender's two sons, is contrary to the plain intention of that very Act, which appears throughout to have been an Act of lenity and mitigation; and to have been confined to the life of the Pretender himself, or three years after the succession of the present Royal Family should take place, the duration of those cruel penalties, of forfeiture of the estates, and corruption of the blood of innocent persons, as the utmost term it was proper or just to allow them. And we apprehend, that the Pretender's marrying and having children, was at that time too probable and obvious an event, not to have suggested this provision, had it been thought either just, or necessary.

4thly, Because we are far from being convinced, that the terror of these penalties will so often prevent guilt, as the execution of them will oppress innocence; and we do not conceive, that those whom neither the innate principle of self preservation, nor the horror inseparable from guilt can restrain, will be checked by the tender sentiments of parental affection.

5thly, Because we conceive, that no present danger whatever can be urged as an argument for this clause, whose operation does not commence till after the death of the Pretender, who is now but fifty-six years old; and we can see no good reason for anticipating a future and remote danger (supposing that such a danger could ever exist) in order to enact at present the longer continuation of so dreadful a penal law.

6thly, Because we conceive the continuation is, in effect, perpetuating this severe law, since whatever reasons can be urged for it during the lives of the Pretender's two sons, will be equally made use of for continuing it, as long as he or they shall have any posterity subsisting.

thly, Because we conceive, that as the clause can have no immediate operation, the enacting it at present may seem rather to be an insinuation of present disaffection, than any security against it ; which insinuation, we apprehend, would be highly unjust and unbecoming, after the unanimous zeal and loyalty which the whole nation has so lately given proofs of for his Majesty's person and Government, and with which his Majesty has so lately from the Throne declared himself satisfied. These reasons have induced us to transmit to posterity our dissent to a clause, by which they may be so severely affected. We reflect with concern upon the heavy burthen of debts and taxes with which, we fear, we shall leave them loaded ; and we desire they may know, that we endeavoured, at least, to secure their innocence from the rigour of those laws to which they may hereafter be exposed and sacrificed.

John Hervey, Lord Hervey.
 William Feilding, Earl of Denbigh.
 George Henry Lee, Earl of Lichfield.
 Edward Harley, Earl of Oxford and Mortimer.
 George Booth, Earl of Warrington.
 Lewis Watson, Earl of Rockingham.
 Philip Dormer Stanhope, Earl of Chesterfield.
 George Parker, Earl of Macclesfield.
 Anthony Ashley Cooper, Earl of Shaftesbury.
 Scroop Egerton, Duke of Bridgewater.
 Thomas Foley, Lord Foley.
 John Fane, Earl of Westmorland.
 Charles Bruce, Earl of Ailesbury and Elgin.
 Henry Somerset, Duke of Beaufort.
 William Talbot, Lord Talbot.
 John Ward, Lord Ward.
 William Coventry, Earl of Coventry.

We dissent for all the reasons but the fourth.

John Russell, Duke of Bedford.
 Sackville Tufton, Earl of Thanet.

CCCXXI.

MAY 2, 1746.

The battle of Fontenoy was fought on the 11th of May, 1745, that of Culloden on the 16th of April, 1746 ; and on the 29th and 30th of April, the Lords and Commons congratulate the King on his victory. But on

the 2nd of May, the Opposition attacked the policy of the war in Flanders in the following manner : 'That an humble address be presented to his Majesty, most humbly to represent to his Majesty, as the opinion and advice of this House, that carrying on the war in Flanders, at so vast a disproportion of expense to this nation, by forming an army on the Continent paid by this nation, while the States of the United Provinces, notwithstanding the unaccountable loss of the greatest part of their barrier, and notwithstanding the very great efforts which this nation has made, have not only avoided declaring war against France, pursuant to treaties, but are actually negotiating for themselves at the Court of France, is a measure tending more to exhaust a nation, long and grievously burthened with debts and taxes, and to destroy the public credit, than to weaken the power of the common enemy, which can best be effected by this nation, where itself is weakened least by a vigorous exertion of our naval strength, and by enabling (as far as the circumstances of the nation will permit) those Powers upon the Continent who are more nearly interested in its defence, to imitate the magnanimous conduct of his Majesty's good ally, the King of Sardinia, in carrying on the war as principals in defence of their own nearest concerns, and to maintain the liberty and independence of Europe against the ambitious views and attempts of France.' The motion was negatived by 81 to 26, and the war in Flanders was continued under the Prince of Orange and the Duke of Cumberland.

The following protest was inserted.

1st, Because it appears to us to be a measure repugnant to the real and fundamental interests of this island to engage Great Britain as a principal, and, in effect, as the only principal in a land war in the Netherlands; the consequences of which are not only the increase of taxes, and of debts at home, but such immense exportations of specie abroad, as this country cannot long, without ruin, sustain.

2ndly, Because we have experienced, and feel the mischiefs arising to this nation from the undue influence of foreign interests upon the Continent, whereby we have been unnecessarily embroiled in endless jealousies and contests, and engaged in impracticable treaties, and fruitless subsidies, until after intervals (hardly to be distinguished) of peace without economy, and war without effect, scarce any trace remains of all the efforts which this nation has made upon the Continent, except that of a debt of more than sixty millions, exhausting the landed, distressing the trading interest, creating new powers, an influence dangerous to the Constitution, sapping the credit, and preying upon the very vitals of our country.

3rdly, Because the means for carrying on the war have appeared,

and still appear to us, not only burthensome and grievous to the nation, but insufficient to the national end which, in our opinion, ought to be the re-establishment of peace: and the conduct of the war throughout the several changes of administration at home, seems to us to have been unaccountable, from the unavailing victory of Dettingen, to the slaughter of our gallant countrymen at Fontenoy.

4thly, Because we have still less reason for concurring in this measure, when we reflect upon the conduct of our allies, Italy having been well nigh lost, by the inattention of the Court of Vienna, and the barrier in the Netherlands having been unaccountably given up by a conduct of the Dutch, for which we want a name, as we want reasons for the ineffectual and contemptuous succour which they sent in our domestic distress; and part of which (even such as it was) they withdrew, when the danger appeared greatest.

5thly, Because after those ministers, who first engaged us in this measure, had declared the concurrence of the Dutch essential to its success; and, after a new-formed Administration, had so explicitly declared that concurrence to be the necessary condition of continuing that measure, after not only the conduct, but the very words of the Dutch (as contained in the memorial which has been laid before us) manifest their disability, or their disinclination to any cordial or effectual concurrence; and after it is become notorious, that at this very time they are treating for themselves at the Court of France, (if we may not rather infer from their conduct, that they have already secured to themselves that protection which their ancestors disdained): after all these considerations, we hold it inexcusable to concur in charging our poor and exhausted country with new and immense expenses, which not only common sense, but experience, has pointed out to be, in this conjuncture, ineffectual; a conjuncture in which even they, who advise his Majesty, did not flatter us with much hope of success.

6thly, Because the prodigious expenses which this nation sustains, in support of this measure, for the hire of foreign mercenaries, bears no proportion between us and our allies, either with regard to their and our interests, to stipulations observed in former wars, or to our present abilities, and must inevitably be, as we apprehend, a growing expense, if the present measures are pursued.

7thly, Because we have seen part of the British forces left useless abroad, at a time when an additional military strength was thought wanting for our domestic defence ; and that want supplied by foreign mercenaries, which alarms us greatly, from the reflections we cannot avoid making on the fatal consequences which may be produced to this country, if a prerogative shall be ever established for bringing over into this country foreign mercenaries in British pay, even during the sitting of Parliament, and without previously consulting that Parliament in a matter so new, and so essential to the honour and to the safety of the nation. This alarms us the more, when we see the troops of Hanover, which had been affectingly secreted from the last year's estimates (though paid by this nation then) now taken avowedly again into British pay ; for which second variation we are not able to assign any national motive. Our alarm, therefore, must increase, since that patriot zeal seems alarmed no longer, which adopted, at least, the constitutional jealousy, and which had given, at least, the sanction of Ministerial and Parliamentary acquiescence to the popular discontent occasioned before by the troops of Hanover. We therefore consider it as our bounden duty to our country, and to his Majesty's royal family, to warn posterity to watch the exertion of so dangerous a prerogative, by which, upon the same reasoning and pretence, that a small number of Hanoverians may be introduced into this country, any greater number may ; and if that shall ever be the case, the rights and liberties of this country may be left at mercy, or the Protestant Succession in his Majesty's Royal House be, at least, endangered by the discontents which such a measure might produce in the hearts of the people.

8thly, Because we are discouraged still more from engaging in the further burthens and hazards of this consuming measure, by the sad view of the situation of affairs at home. The peace of the Kingdom is not yet entirely restored ; the whole expense already incurred by the Rebellion is not yet ascertained ; the further expense which may be incurred, cannot be yet foreseen ; the pressing demands of the Navy Debt weaken us most where we should endeavour to be strongest. And since to these we may add the stagnation of commerce, the decay of our inland trade, the vast increase of our military establishment at home, made up of hands wanted by the manufacturer and the farmer ; the decrease of national wealth, the difficulty and

enhanced expense of raising supplies ; when adding debts to debts, we have parted, in effect, with the very power of redemption, by mortgaging the Sinking Fund ; the fluctuation and delicacy of the public credit ; the combination of all these circumstances presents to our minds a dark and dangerous situation (such a one as we would not have thus pointed out, if it remained a secret to any one within, or without this island), a situation which, we apprehend, ought to fix our attention, in the first place, at home, and to warn us not to precipitate the too nearly impending ruin of our country. We should rather hope for a proper exertion of our own British naval strength, and by assisting the Powers more nearly concerned upon her Continent, with unsparing, but not with lavish hands, to withstand the ambitious designs of France ; that we might regain to this nation from foreign Powers that respect grounded upon our prudence, and upon our strength rightly applied ; which alone ought to be made the foundation, and can alone be the support of peace ; at least that we might find some leisure from our cares for others, to effect, if possible, our own domestic welfare, instead of promoting (as we apprehend the present measures tend to promote) national calamity, bankruptcy, and military Government.

gthly, Because our duty to God, and to our country, excites us, in such a situation, more particularly to exert ourselves in discharge of that office, for which we stand accountable to both, being established by the Constitution guardians of the people, and counsellors to the Crown, constituted to watch, to check, to avert, to retrieve, to support, or to withstand wherever our duty suggests ; in which no desire of opposition, no personal dislike, no little motive of resentment, or of ambition ; no selfish, or no partial consideration has animated, can relax, or shall disgrace our conduct ; affected deeply, but not depressed with the impending ruin of our country ; we are determined not to be remiss in our endeavours to retrieve its welfare, which can only be effected by the re-establishment of peace, and of order, by wise economy, and temperate reformation, by regaining confidence, and authority to Government ; and reviving in the nation a truly British and a moral spirit. With all who will concur in such a conduct we will unite with affection ; all other connections and views we disclaim and abhor.

Charles Noel Somerset, Duke of Beaufort.

Herbert Windsor, Lord Montjoy (Viscount Windsor).

Henry Bowes Howard, Earl of Suffolk and Berkshire.
 James Compton, Earl of Northampton.
 Anthony Ashley Cooper, Earl of Shaftesbury.
 John Fane, Earl of Westmorland.
 Laurence Shirley, Earl Ferrers.
 George Henry Lee, Earl of Lichfield.
 Philip Stanhope, Earl Stanhope.
 Edward Harley, Earl of Oxford and Mortimer.
 John St. John, Lord St. John of Bletsoe.
 Willoughby Bertie, Earl of Abingdon.
 John Ward, Lord Ward.
 Charles Maynard, Lord Maynard.
 Heneage Finch, Earl of Aylesford.
 Price Devereux, Viscount Hereford.
 John Boyle, Lord Boyle (Earl of Orrery).
 Thomas Foley, Lord Foley.
 Fulwar Craven, Lord Craven.
 William Talbot, Lord Talbot.

CCCXXXII.

MAY 21, 1747.

A report had been drawn up early in 1747, by Duncan Forbes, President of the Court of Session in Scotland, on the heritable jurisdictions in Scotland, with suggestions for legislation. In consequence, Lord Hardwicke, the Lord Chancellor, introduced a Bill on the 17th of February, for the purpose of abolishing these jurisdictions. The same Bill was introduced in the Commons by Attorney-General Ryder. It was stated, pretty plainly, that one of the reasons, if not the principal reason which induced the Government to undertake the change, was the assistance which such a system had given to the late rebellion, by organising the clans. The chief argument against the change was that it contravened the Articles of the Union. The Bill (20 George II, cap. 43) appears to have passed without a division in the Lords.

The following protest was inserted after it was resolved that the Bill should go into Committee.

1st, Because changing the civil Constitution of Scotland, which the Act of Union reserved, and taking from the great families in that part of the Kingdom, without their consent, and against their will, their ancient rights and inheritances to be purchased by the public in this time of their distress, at a great but uncertain expense, appears to us to be so extraordinary an exertion of the power of Parliament, as could only be justified by necessity of state, or by some general, manifest, and urgent utility to the public.

2ndly, Because we apprehend this Bill not to be justified by any

necessity of state, since it is manifestly and avowedly ineffectual, if calculated for adding any further security to his Majesty's Government, because it is not so much as pretended that this Bill can have any effect upon the influence of clans, which arises from no legal authority; and since from the legal jurisdictions subject to the control, and necessarily under the direction of the King's courts in Scotland, danger to Government is no more likely to arise, than from the influence which rank and property may acquire in any other part of his Majesty's dominions.

3dly, Because the utility to the subjects in that part of the Kingdom from this Bill, is not apparent to us, since it is not imagined that a real, a great, and extensive benefit, should not be desired by the people of Scotland, when rendered to them, but, on the contrary, should meet with strong opposition, cold acquiescence, or silent disgust; and since no single instance of grievance has been alleged, but, on the contrary, it has been acknowledged, that no bad use has been made of this part of the ancient civil Constitution of Scotland, which it is intended by this Bill to abolish at once, and for ever.

4thly, Because we do not conceive the policy of making without necessity, at this time by a permanent law, so considerable an alteration in Government; nor do we apprehend the wisdom of purchasing an ineffectual problematical plan by a certain, but unknown expense. Neither do we understand how it is consistent with justice to abolish the rights of the parties concerned without previously adjusting their compensation. Nor can we reconcile with our duty to the public, the delegating to the Court of Session in Scotland, the power of fixing the sums to be raised upon the people, a new method of creating a new load of expense in no degree ascertained, or ever suggested to Parliament.

5thly, Because we apprehend, by the maxims of the Constitutions of this country, influence in the hands of the Crown, is more to be feared from the abuse of ministerial power, especially in the election of members of Parliament, than when in the hands of the nobility and gentry, whose rank and property are naturally the supports of a free Government; and we cannot conceive how the liberty of Scotland will be better preserved by this Bill, which, in our opinion, manifestly tends to constitute, at this juncture, a new influence over all the counties of North Britain, by throwing a

great and dangerous power into the hands of Ministers; especially when it is avowed, that such an alteration of Government may necessitate the introduction of a military force. A fatal symptom, when it can even be mentioned in a British Parliament, that a measure avowedly ineffectual for the safety of Government, and evidently unnecessary for the public utility, must, probably, be carried into execution by military force, which, if allowed, and not exerted, must produce an influence of the most pernicious kind; if exerted, establishes a military Government of the most dangerous nature, because masked under the form of civil Government, a practice tending, in either case, totally to subvert the Constitution of this country, and to which, therefore, we can never consent.

Edward Harley, Earl of Oxford and Mortimer.

George Henry Lee, Earl of Lichfield.

Anthony Ashley Cooper, Earl of Shaftesbury.

John Fane, Earl of Wesmorland.

Philip Stanhope, Earl Stanhope.

William Talbot, Lord Talbot.

Laurence Shirley, Earl Ferrers.

John Ward, Lord Ward.

William Feilding, Earl of Denbigh.

Charles Noel Somerset, Duke of Beaufort.

CCCXXXIII.

JUNE 1, 1749.

An Act, 22 George II, cap. 43, was passed in this Parliament, for continuing certain Acts passed in the twelfth year of Anne and the twelfth of George I, under which certain roads in the county of Worcester were repaired. As was customary, a large body of trustees was appointed under the original Acts, and under this Act a number of others are named who 'are added to and joined with the trustees named and appointed in and by the said recited Acts, or either of them, or elected at any time before the 31st day of July, 1748.' It appears that certain persons elected since this date and before the passing of the Act were excluded from the trust, and that three persons petitioned against the words of exclusion. It was therefore moved that the words 'before the 31st of July, 1748' should be omitted. But the motion was negatived, and the following protest was inserted.

1st, Because it appeared by these books and deed produced before the Committee, that the persons hereby to be excluded were elected into this trust by a legal number of surviving commissioners, in pursuance of an Act passed in the twelfth year of his

late Majesty's reign, which is mentioned in the title of this Bill, wherein are these words; 'And all and every person or persons so elected, nominated, and appointed, is and are hereby empowered to act and do, in putting this and the said former Act in execution, in as full and ample a manner as any of the trustees named in the said former or this present Act are empowered to act and do.' By which it appears, that these persons have the strongest titles to the rights and privileges granted by that Act; which Act is not repealed by the present Bill, and of which seven years remain yet unexpired.

2ndly, Because the depriving persons of their franchises, which they are in the actual possession of, and enjoy, under the authority of two Acts of Parliament, without the least misdemeanour or complaint suggested against them, seems, in our opinion, too great a deviation from that strict regard which this House has always shown to the property of the subject.

3rdly, Because we look on retrospect laws, in general, as injurious to the persons against whom they are made; but more particularly so in the present case, where a punishment is inflicted without any crime alleged, which we conceive to be without example; we are therefore at a loss to reconcile such a proceeding to the principles of justice or reason, especially as we have heard no argument made use of to support it.

4thly, Because we apprehend a precedent of this nature may be productive of the most fatal consequences, as it tends, in our opinion, to invalidate Parliamentary rights, and may hereafter be equally applied to cases of a higher and more dangerous nature. And if ever that should happen, we do not see what security any subject of these Kingdoms can have for his liberty and property which have been so long the boast of the British Constitution.

Thomas Foley, Lord Foley.

Anthony Ashley Cooper, Earl of Shaftesbury.

Edward Harley, Earl of Oxford and Mortimer.

CCCXXXIV.

NOVEMBER 13, 1755.

In the spring of 1755, George II, very much against the wish of his Administration, left England for Hanover, and immediately afterwards a fleet of English vessels under Boscawen sailed to the St. Lawrence in order to watch a fleet which had just sailed from Brest to America.

There was a collision between these fleets off Newfoundland, and two French vessels were captured. The French ambassador, M. de Mirepoix, was recalled from London, and soon afterwards (the 18th of May, 1756) war was declared against France. During his residence in Hanover, George negotiated a treaty with the Landgrave of Hesse Cassel (the 18th of June, 1755) on the usual terms (Almond's Treaties, vol. ii, p. 154), the object being the defence of Hanover. In the Speech from the Throne, the 13th of November, 1755, the fact of this Treaty was announced to the Houses, and in the address from the Lords, assurances were given to the King that Parliament would assist him in the defence of those Kingdoms, or 'any other of his dominions, although not belonging to the Crown of Great Britain, in case they should be attacked on account of the part taken by his Majesty for the support of the essential interests of Great Britain.' This sentence was attacked both in the Lords and Commons, in the former by Lord Temple, in the latter by Mr. Samuel Martin. It was on this occasion that Mr. William Gerard Hamilton made the speech which gave him the name of Single Speech. Pitt opposed the Treaty, and lost his place. The motion for omitting the clause was negatived in the Lords without a division, was rejected in the Commons by 311 to 105.

The following protest is inserted.

1st, Because the words of the address objected to, pledging the honour of the nation to his Majesty in the defence of his electoral dominions, at this critical conjuncture, and under our present encumbered and perilous circumstances, tend not only to mislead his Majesty into a fallacious and delusive hope that they can be defended at the expense of this country, but seem to be the natural and obvious means of drawing on attacks upon those electoral dominions; thereby kindling a ruinous war upon the continent of Europe, in which it is next to impossible that we can prove successful, and under which Great Britain, and the Electorate itself, may be involved in one common destruction.

2ndly, Because it is, in effect, defeating the intention of that part of the Act of Settlement (the second Great Charter of England), whereby it is enacted, 'That in case the Crown and imperial dignity of this realm shall hereafter come to any person not being a native of this Kingdom of England, the nation be not obliged to engage in any war for the defence of any dominions or territories which do not belong to the Crown of England, without the consent of Parliament.' For if at this juncture, under all the circumstances of our present quarrel with France, to which no other Prince in Europe is a party, and in which we do not call for, nor wish to receive the least assistance from the Electorate of Hanover,

it shall be deemed necessary, in justice and gratitude, for this nation to make the declaration objected to, there never can be a situation, or point of time, when the same reasons may not be pleaded, and subsist in their full force. Nor can Great Britain ever engage in a war with France, in the defence of her most essential interests, her commerce and her colonies, in which she will not be deprived of the most invaluable advantages of situation bestowed upon her, by God and nature, as an island.

3dly, Because, without any other previous engagement, his Majesty might safely rely upon the known attachment of this House to his sacred person, and upon the generosity of this country, famous and renowned in all times for her humanity and magnanimity, that we would set no other bounds to an object so desirable, but those of absolute necessity and self-preservation, the first and the great law of nature.

Richard Grenville, Earl Temple.

CCCXXXV.

DECEMBER 10, 1755.

On this day, Earl Temple moved, 'That it is the opinion of this House, that the two subsidiary treaties, lately concluded with the Empress of Russia and the Landgrave of Hesse Cassell respectively, tend to involve this nation in an expensive and ruinous war upon the continent, to consume our strength and treasure, and to divert us from the exertion of our utmost efforts for the defence of these Kingdoms, threatened with invasion, and for the recovery and protection of our possessions in America, encroached upon, and actually invaded, by the arms of France.' An important debate followed, the particulars of which are very imperfectly preserved. The treaty with Russia will be found in Almond's Treaties, vol. ii, p. 137. The motion was rejected by 84 to 11, and the following protest was inserted.

1st, Because though it was urged in the debate of this motion, that the subsidiary treaty with the Empress of Russia had a pacific intention, I apprehend its operation may prove fatally the reverse of so prudential a view, the clauses it contains of free quarter and predatory devastation, rather denouncing hostility, than speaking the equitable and conciliating language of peace.

2ndly, Because in the late war, the troops of the Landgrave of Hesse, levied at the expense of this nation, and duly paid their stipendiary hire, in violation of federal faith, engaged themselves

in the service of the Emperor Charles the Seventh, then in arms against the cause maintained by the British Standard.

3rdly, Because an event may happen, which may make the Protestant Succession in these Kingdoms not the object of the wishes, or considered as the interest of a Landgrave of Hesse.

4thly, Because I am convinced that a proper exertion of our strength on the American continent, and a steady pursuit of the vigorous and laudable conduct of our naval force, will enable us to dictate terms of peace to the Court of Versailles; and as firmly believe that a war upon the European continent must soon reduce us to implore them.

William Talbot, Lord Talbot.

CCCXXXVI.

MARCH 5, 1756.

An Act, enabling the King to grant commissions to a certain number of foreign Protestants who have served abroad as officers or engineers, to act and rank as officers or engineers in America only, under certain restrictions and qualifications, was brought from the Commons, and passed without a division. The Act (29 George II, cap. 5) received the royal assent on the 9th of March. It gives as a reason for employing the service of foreign born settlers in the British plantations in America, that many of the settlers were Quakers, 'whose backwardness in their own defence exposes them, and that part of America, to imminent danger.' The colonel of each of the four regiments is to be a natural-born subject, the number of officers is not to exceed fifty, of engineers twenty; they are to give certificates to the effect that they have received the Sacrament in some Protestant church, and they are to receive pay when they are reduced.

The Act produced the following protest.

1st, Because this Bill, to enable his Majesty to grant military commissions to a certain number of foreigners, is framed in direct opposition to the principle and letter of that provision, in the Act of the 12th of King William the Third, for the further limitation of the Crown, and better securing of the rights and liberties of the subject, which expressly provides 'that no foreigner, even although he be naturalised, or made a denizen, shall be capable to enjoy any office or place of trust, civil or military;' which provision having since been renewed by the legislature, and the report thereof guarded against by the Act of the 1st of King George the First, as far as a law in one age can prevent the repeal in another, has

to this day been considered and revered as an essential and sacred part of our present Constitution.

2ndly, Because none of the allegations in favour of this measure, upon the truth of which alone the expediency or necessity thereof must depend, have been in any degree proved. On the contrary, when facts asserted have been denied, and it has been proposed to go into the enquiry, upon evidence brought from those provinces, where this necessity is supposed to take its rise, all witnesses have been refused, and necessary information precluded. And surely the plea of necessity, alleged in support of this measure (a plea always to be received with suspicion, when urged to introduce a change in a free Constitution) is in the present case not a little extraordinary, as that necessity, if it does exist, can only arise from the present neglected, defenceless, and calamitous state of our American colonies, whose distress and danger have been brought upon them, as we really believe, by the conduct of an Administration, who after having, with an unexampled patience, acquiesced under an uninterrupted course of encroachments from the Treaty of Aix-la-Chapelle to the year 1754, when actual war broke out (a fort of his Majesty being taken, and his troops attacked and beaten in the meadows), did at last send the small succour of two battalions only, consisting of no more than five hundred men each, under General Braddock, since whose defeat in July last no farther succour of troops has been sent to America.

3rdly, Because we have reason to believe, that if evidence had been admitted, it would have appeared that this Bill, as a scheme for raising an American force, is neither expedient nor necessary; that the granting commissions to foreign officers, strangers to America, and aliens to Great Britain, will retard, and possibly prevent the levies they are pretended to facilitate; and that the granting such commissions from his Majesty, rank in America, and half-pay in Great Britain, to these foreign officers, advantages repeatedly refused to the provincial troops of North America, as well as by a most dangerous innovation giving power to such foreign officers to sit in courts-martial, and though aliens themselves, to judge upon the lives and honour of his Majesty's natural-born subjects, must create an universal disgust there, highly prejudicial to the rights of his Majesty, and to the interests of this country.

4thly, Because the provision in the Bill, which enacts that the

colonel shall be a natural-born subject, does not really contain that security which it affects to give against the command of the regiment devolving upon a foreigner, as there may be fifty foreign officers employed in the regiment, whose commissions are not otherwise restrained to any rank; and upon the absence of the colonel, who is a general officer, or in case of his death, if the eldest of the four colonel-commandants should be a foreigner, the command of the regiment must devolve upon an alien, against which the Bill does not provide, though the title of colonel of the regiment is indeed withheld from him; which consideration has the more weight with us, as it may happen that, at the time when the command shall so devolve upon the foreign officer, the four colonel-commandants, all the field-officers, and all the captains in the four battalions, may be foreign also; and in that event not only the present and future defence, but the civil liberties of North America, will be entrusted to a body of soldiers (perhaps aliens also) commanded by officers neither American nor British. And it is very remarkable, that this regiment, intended for the immediate relief of our colonies in their present imminent danger, cannot possibly be raised early enough to act this campaign; although it hath been preferred, ineffectual and disgusting as it is, to every other sort of military force; notwithstanding it is obvious too, that out of great numbers of officers, natural-born British subjects, at this time in the service of our Protestant allies, and out of American officers who have served with reputation in all our late expeditions in those parts, a force might have been raised and officered without any change in our Constitution, and with the entire satisfaction of America.

5thly, Because the Bill founded upon an expediency, which is not alleged to be more than temporary, and which from its nature cannot be otherwise, is in its frame and duration perpetual; by which not only the remedy, odious in itself, is extended, without necessity, beyond the pretended occasion for it, but a pretext is found for a perpetual repeal of one of the most essential parts, still left subsisting of the original Act of Settlement in a case, and in an age, when every sober and thinking man would feel a reluctance in suspending it, even upon the strongest proof of necessity, for the conjuncture only; more particularly as the same disposition and turn of policy which, upon the pretence of a temporary ex-

pediency, has fixed upon America this perpetual law, may in a future time, at some season advantageous to the design, upon a similar expediency contrived and not suffered to be examined, contend for, and carry a Bill of the same sort for Great Britain: and if this should happen, which God avert, the sword of both countries will be lodged in foreign hands, to the entire overthrow of the present Constitution, and to the subversion of the liberties of Great Britain.

For these reasons we are of opinion, that if we had given our assent to this Bill, which is a manifest departure from a sacred provision in the Act of Settlement, contemporary with the most solemn confirmation of our civil liberties, and enacted as the firmest barrier for the preservation of that great work, we should have been unmindful of our duty as Peers of this realm, careless of our rights as British subjects, and wanting to the security of our posterity; persuaded as we are, that when the tendency, novelty, and danger of this measure shall be thoroughly known and considered in America, the force proposed will probably never be raised; and convinced that if it should be raised, it ought not to be trusted, that it may not only excite and spread a deep and universal disgust and apprehension in the minds of his Majesty's most loyal and deserving American subjects, but even deprive us of the exertion of all the natural strength of America, where such eminent services have very lately been voluntarily performed by several of the North American colonies, thereby rendering the war in those parts, which, conducted with common prudence, and timely precaution, might have had a speedy and honourable issue, extremely dilatory, impracticable, and ruinous, bringing upon our arms disappointment, and upon our counsels disgrace.

Richard Grenville, Earl Temple.

William Talbot, Lord Talbot.

CCCXXXVII.

MAY 30, 1758.

At some time during the autumn of 1757, a gentleman was pressed, and confined in the Savoy. His friends applied for a Habeas Corpus. A difficulty however arose as to whether the Habeas Corpus Act, 31 Charles II, cap. 2, applied to any other than criminal cases, and also whether the Act did not also preclude the grant of the writ at common

law. In this particular case, the gentleman was discharged by warrant of the Secretary at War. But when Parliament met, it appeared that the Act of Charles II was defective, and consequently a Bill was brought into the House of Commons on the 8th of March, 1758, was passed on the 24th of April, and was forthwith sent to the Lords. While it was in the Upper House, the Lords put a series of questions to the judges, answers to which were delivered on the 30th of May. On this being done (the judges having generally declared that the Act of Charles II was insufficient to meet many cases of great hardship), it was moved that they should be asked the following question: 'Whether, if a writ of Habeas Corpus *ad subjiciendum* at the common law be applied for, either in term or vacation time, by the friend or agent, and on the behalf of any person under actual confinement or restraint; and if the person, so applying, should make an affidavit of such confinement or restraint, and that he believes the same not to be by virtue of a commitment for criminal or supposed criminal matter, but should declare that he could give no other material information relative thereunto, would such an affidavit, as the law now stands, be a proper probable cause for the awarding of the said writ of Habeas Corpus, and would the court or judge be bound immediately to award the same, as a writ of right, or would the court or judge be bound to refuse the same upon such affidavit only, or is it in such case entirely left to the discretion of the court or judge to grant the said writ of Habeas Corpus to one person upon such affidavit, if they shall so think fit.' The motion was negatived and the following protest entered.

1st, Because the case stated in this question tends to ascertain the nature, degree, and extent of that dangerous discretion now contended for in awarding writs of Habeas Corpus *ad subjiciendum*, to which discretion no bounds by the terms of the opinions delivered by the judges are as yet set. And this matter is not stated in any other of the said questions proposed to them; nor doth it appear, by any of their answers, whether this precise case, exactly the same as that required by the Bill under deliberation be or be not, in their opinion as the law now stands, a proper probable cause for the awarding of the writ aforesaid.

2ndly, Because one of the principal reasons urged in the debate for not allowing this question to be proposed to the judges, was, that the asking it implied an imputation upon them, by supposing they would grant it to one person, and refuse it to another on the same case, whereas the question is not whether they would, but whether by law they could exercise such a discretion; and it is of importance to ascertain, whether, in their opinion, the character and credibility of the person applying upon oath for the writ, can and ought to determine the judge in the exercise of that discretion.

3rdly, Because there is great reason to believe, that if this question had been suffered to be put, it might have appeared that an actual confinement or restraint, verified in the manner stated in the question and Bill, is by the law, as it now stands, a sufficient cause for the granting the said writ, and, consequently, that the provisions in this Bill to enforce the awarding it, and a speedy obedience in the return thereto, are agreeable to the fundamental principles of law and justice, and essentially necessary to the freedom of the subject.

Richard Grenville, Earl Temple (Lord Privy Seal).

CCCXXXVIII.

JUNE 2, 1758.

The Bill referred to in the previous protest may be found in Parliamentary History, vol. xv, p. 871. On the 2nd of June a motion was made that the Bill be committed, but the motion was negatived, and the Bill was rejected. Lord Hardwicke at the same time promised to bring in a Bill giving additional powers to the judges for the issue of writs of Habeas Corpus. The promise was not redeemed. It is said that the annexed protest would have been numerously signed had it not been for Lord Hardwicke's pledge.

1st, Because, until some effectual and speedy remedy be provided, by a new law, for the awarding and returning writs of Habeas Corpus *ad subjiciendum* in cases not within the statute of the 31 Car. II, the subject may, in many instances, be oppressed and deprived of his liberty, without the possibility of redress, that remedy which our ancestors have wisely provided and enforced by the statute for the immediate relief of the guilty, being denied to the innocent.

2ndly, Because the subject is left under the most perplexing and grievous uncertainties, of various kinds, which appear from the contradictory opinions and reasons delivered by the judges, in answer to some of the questions stated to them; all which reasons, whereupon their answers were founded, they did unanimously desire leave to decline giving in writing to the House, whereby it would have appeared that some of the judges conceived that the practice of awarding writs of Habeas Corpus in vacation time, was founded upon ancient precedents, and principles of law, without which support it was held, that no practice of judges, within time of memory, was powerful enough to establish a law, while others, denying any such principle and law to have ever existed, and not

admitting the force of such precedents, maintained such practice, since the statute was sufficient to give that usage the stamp of law. Others, again, contended strongly, that neither the one nor the other opinion could be supported, but that the practice was well justified by an equitable construction of the statute; which was opposed by others, who thought that such practice might well be introduced upon the plan of the statute by analogy; from all which variety of notions, not only the legality of this practice, but the unanimity of opinion which regularly ought to result from uniformity of principles, may well be questioned, since the same conclusion cannot fairly or safely be deduced from clashing and discordant premises.

3rdly, Because it is now become of indispensable necessity, to define with precision what shall be deemed a probable cause, under which the judges, at all times, shall be bound to issue the writs aforesaid, that they may not in bad times, under words of so alarming a latitude, assume an arbitrary discretion, destructive of the personal liberty of the subject, in manifest violation of the ancient known common law of the land, confirmed by Magna Charta, and declared by the strongest, clearest, and most unanimous resolutions of both Houses of Parliament (hereby referred to) made, in different ages, upon two solemn occasions, with the assistance of the ablest and most eminent lawyers and statesmen, and because the general doctrines and opinions laid down in the course of this debate, that neither a judge, nor the court, are bound to grant this great remedial writ to the subject, upon proof of actual confinement, verified by affidavit, are not supported by any single determination of any one court of justice, and are directly repugnant to the reason and genius of the law of this free country.

Commons' Journal, April 3, 1628.

'Resolved upon question, that the writ of Habeas Corpus may not be denied, but ought to be granted to every man that is committed or detained in prison, or otherwise restrained, though it be by the command of the King, the Privy Council, or any other, he praying the same without one negative.'

Lords' Journal, April 9, 1628.

Mr. Selden, who was manager with Sir Dudley Digges, Mr. Lyttelton, and Sir Edward Coke, speaking in the name of the

House of Commons, says, 'Now, my Lords, if any man be so imprisoned, by any such command, or otherwise, in any prison where-soever through England, and desire, either by himself, or by any other in his behalf, the writ of Habeas Corpus for the purpose in the Court of King's Bench, the writ is to be granted to him, and ought not to be denied him, no otherwise than any ordinary original writ in the Chancery, or other common process of law may be denied; which, among other things, the House of Commons hath also resolved, upon mature deliberation; and I was commanded to let your Lordships know so much.'

Lords' Journal, February 27, 1704. The twelve judges present.

Resolved, That every Englishman who is imprisoned, by any authority whatsoever, has an undoubted right, by his agents or friends, to apply for and obtain a writ of Habeas Corpus, in order to procure his liberty, by due course of law.

Lords' Journal, March 13, 1704.

Report of a representation to the Queen, in which are contained the following words: viz. 'It has been allowed, by the known common law, it is the right of every subject, under restraint, upon demand to have his writ of Habeas Corpus, and thereupon to be brought before some proper court, where it may be examined whether he be detained for a lawful cause.'

Richard Grenville, Earl Temple (Lord Privy Seal).

CCCXXXIX.

FEBRUARY 5, 1762.

The Houses met on the 3rd of November, 1761, and the King's Speech was delivered on the 6th of November. But on the 19th of January the King informed the Houses that he had been obliged to make war against Spain. The papers bearing on the causes which led to this rupture are to be found in Parliamentary History, vol. xv, p. 1128, and were laid before the Houses on the 29th of January. The declaration of war was made on the 4th of January. For the historical circumstances, see Stanhope's History, chaps. xxxvii, xxxviii. The debate which led to the sub-joined protest is lost, only a few notes of Lord Hardwicke's existing. The following motion was made by the Duke of Bedford, but was rejected by 105 to 16: 'That it is the opinion of this House, that the war at present carried on in Germany is necessarily attended with a great and enormous expense; and that, notwithstanding all the efforts that can possibly be made, there seems no probability the army there, in the pay of Great Britain, so much inferior to that of France, can be put into such

a situation, as to effectuate any good purpose whatsoever ; and that the bringing the British troops home from Germany would enable his Majesty more effectually to carry on, with vigour, the war against the united forces of France and Spain, give strength and security to Great Britain and Ireland, support the public credit, and, by easing the nation of a load of expense, be the likeliest means, under the blessing of God, to procure a safe and honourable peace.'

1st, Because the main question being so true in every particular, which was assented to by most of the Lords who spoke in this debate, and no argument being alleged that it was unconstitutional, the previous question should not, in the present case, have been insisted on, as thereby Lords were debarred from laying before the Throne their sense on a matter of this importance.

2ndly, Because in the debate there was no shadow of argument used, to show the impropriety of this question being brought before the House at this time, or that it was prematurely undertaken by the Lord who moved it. On the contrary, it was proved by irrefragable arguments, that if the measure was right to be done, no time should be lost in bringing the British forces home during their winter quarters, which was the only season when it could be done with safety, and without any possible impediment from the enemy.

3rdly, The present situation of the war, by the additional weight of the Crown of Spain, being thrown into the scales against us, doth undoubtedly require, at this very critical time the utmost frugality, towards easing the nation from any unnecessary expense ; and as the present war in Germany is indisputably carried on at a great and enormous expense, and, in the general conception of mankind, without any possibility of any good being reaped from it, it seems the undoubted right of every Lord of this House, to submit to Parliament his opinion against a longer continuance of such measures as have already proved so detrimental to the public, by involving this nation in an additional debt of near six millions yearly, without serving any one British purpose, or even supporting with efficacy those countries for whose preservation it has been pretended these immense supplies have been granted.

4thly, A continental war, carried on in Germany without allies, and at a sole expense of Great Britain, whilst this nation is involved in a war with the two most considerable maritime Powers of Europe, cannot be esteemed a system of true policy ; as France, let the success against her arms be ever so great, is not vulnerable

from that quarter; and Spain, on account of her distance, would, doubtless, not be intimidated by the success of the British arms in Germany.

5thly, The expedience of the present continental war cannot be justified, either on the principles of its being a war of diversion of the forces of France from the invading his Majesty's dominions, or the succouring their own colonies, both of which they are incapacitated from doing, by the ruin of their naval force. Neither can it be alleged as a measure calculated to support the King of Prussia, who is not at war with France, nor in danger, though the British troops should be withdrawn, of being crushed by that war, whose interest will, undoubtedly, restrain her from taking a step, which could only tend to the aggrandisement of the House of Austria, the ancient and natural rival of the House of Bourbon.

6thly, The present great scarcity of specie, and the low state of the public funds, render it the indispensable duty of this House, to suggest to the Throne, every means of preventing an unnecessary profusion of the public treasure, more especially when the payments that must be daily made, and which must be done by the exportation of bullion, must unavoidably cause such a stagnation of trade and industry, as may be of the most fatal consequence to this country, which can in no degree be compensated for on the ill grounded notion, that the expenses of the enemy are equally great and burthensome to them, which is not only denied, as it can never be proved; but is, moreover, exploded by this undeniable truth, that France, by withdrawing her troops, can put an end to it whenever she pleases, and without any danger to herself of being attacked by an inferior army on her own frontiers on that side, and which, as she has not yet done, is a sufficient proof of the truth of this proposition.

7thly, The agreeing to the resolution proposed could be in no degree construed as a breach of faith to our allies, or a stain to the honour of the nation, as we are bound by no treaties to keep an army in Germany, and the war on that continent seems to have been entered into voluntarily by us, without being called upon by any other Powers, and most precipitately taken up again, when it had been so happily extinguished by the Convention of Closter Seven.

William Petty, Lord Wycombe (Earl of Shelburne).

John Russell, Duke of Bedford (Lord Privy Seal).

John Murray, Earl of Dunmore.
George Fermor, Earl of Pomfret.
Vere Beauclerk, Lord Vere of Hanworth.
Francis Greville, Earl Brooke and Warwick.

CCCXL.

MARCH 28, 1763.

In order to meet the outstanding obligations of the war, which had just been brought to an end by the peace of Paris, a duty was proposed to be levied on the manufacture of cider and perry. This was to be four shillings in the hogshead on the grower, the impost being extended to private houses. The debate in the House of Commons, which is lost, was rendered memorable by Pitt's jest of the gentle shepherd, which fixed that nickname on George Grenville. Six divisions were taken on the Bill in the Commons, but it was carried and sent to the Lords. On the proposal to commit the Bill a division was taken, when the committal was carried by 83 to 49.

The following protest was inserted.

1st, Because we conceive there would have accrued less detriment to the public by rejecting this Bill, than by agreeing to it; since it would have been easy, had the Bill been rejected, to have provided the necessary supplies by some other ways and means, less dangerous to public liberty than the extension of the laws of excise over new orders of men, who, by mere ignorance and inadvertency, may be subjected to the severest penalties for things done in the common, ordinary, and necessary management of their farms.

2ndly, Because blending distinct matters in the same money-bill, lays this House under the utmost difficulties; since the alteration made by this House, to any parts of such Bill, may be an unavoidable obstruction to other parts of it, less liable to objection, and requiring greater expedition and despatch. And we conceive, that to tack unto such Bill, matters, which, for many reasons, ought to be kept separate and distinct, is destructive of all freedom of debate and of all due deliberation, unparliamentary, highly derogatory to the privilege of the Peers, and may be of dangerous consequence to the prerogative of the Crown.

3rdly, Because we apprehend that such parts of the said Bill as extend the laws of excise over the makers of cider and perry, are not only injurious to the liberties of the subject, but particularly offensive to the dignity and privilege of the Peers;

since their houses may be visited and searched, and they themselves may incur the penalties of this Bill, to be levied upon them by justices of the peace, and commissioners of the excise. We are therefore doubly called upon to dissent from the passing of this Bill, by a due and just sense of the dignity and privilege of the Peerage, and by a tender regard to the liberties and properties of the people, of which this House hath been always esteemed the hereditary and perpetual guardians.

4thly, Because when we consider the great number of families, over whom and their posterities the laws of excise are extended by this Bill, the incapacity of farmers to comply with it, not only in respect to their ignorance, but to the nature of their business; the heavy penalties imposed for involuntary offences; the summary and arbitrary method of trying and determining those offences, and of levying those penalties; the great and expensive increase of officers to be employed in collecting an inconsiderable and very uncertain revenue; and the influence of those officers, which, in critical times, may be employed to the worst of purposes; we cannot but be most seriously alarmed at a stretch of power, so wide, so unnecessary, and so unconstitutional.

Thomas Foley, Lord Foley.

Edward Harley, Earl of Oxford and Mortimer.

John Peyto Verney, Lord Willoughby de Broke.

CCCXLI.

MARCH 30, 1763.

The cider Bill was read a third time and passed. It appears on the Statute Book as 4 George III, cap. 7, but was repealed by 6 George III, cap. 14. During the passage of the Bill a petition was presented by the Lord Mayor, Aldermen, and Commons of the city, which Bute tried to prevent by promising the repeal of the Act next year, and assured Sir James Hodges, Town Clerk of the city, to that effect. He afterwards denied it, and it appears that he made the promise ambiguously.

The mode in which the loan was raised is commented on in the following protest, against the third reading.

1st, Because by this Bill our fellow-subjects, who from the growth of their own orchards make cider and perry, are subjected to the most grievous mode of excise; whereby private houses of

peers, gentlemen, freeholders, and farmers, are made liable to be entered and searched at pleasure. We deem this to be not only an intolerable oppression, affecting private property, and destructive of the peace and quiet of private families; but, to use the words of one of the first gracious Acts of liberty, passed by our great deliverer, King William the Third, repealing the hearth money, 'a badge of slavery.'

2ndly, Because we think we owe it to our countrymen, who have so cheerfully submitted to the great load of taxes, which have been found necessary, in support of a just, prosperous, and glorious war; by every means in our power to mark our high disapprobation of the terms upon which three millions five hundred thousand pounds have been borrowed on this loan, without any material alteration since in the state of the public credit; an enormous profit of above three hundred and fifty thousand pounds is already made by such persons as have been favoured with shares in this private subscription. We apprehend that, in time of peace, an open subscription had not only been the fairest, but the cheapest method of borrowing any sums, which the necessities of the public might call for. It appears to us, by the votes of the House of Commons, that on the 8th of this instant March, this bargain was first consented to by them; whereby a redeemable annuity of four per cent. is given to certain persons, who offered to advance this loan. No less than two lotteries in one year, are now, for the first time, without any urgent necessity, established in the days of peace, to the no small excitement of the pernicious spirit of gaming, which cannot be too much discountenanced by every state, governed by wisdom, and a sober regard to the morals of the people. Two lottery tickets, bearing four per cent. interest, from the 5th day of April, 1763, are allowed at ten pounds each, to every subscriber of eighty pounds; whereas no more than an interest at three per cent. and that to commence only in a future year, hath been given upon former lotteries, during the highest exigencies of the public; at a time too, when there was in contemplation a loss of no less than thirty per cent. upon every blank and every prize; and when no less a sum than twelve millions was borrowed for the service of the Government. On the 8th of this instant aforesaid, and for several days preceding, the general price of stock was very much upon an equality with

that which they bear at present ; nor hath any considerable variation happened in the great three per cent. and four per cent. annuity funds since that time. The redeemable annuity, exclusive of the profit so certainly to be made upon the lottery tickets, sells at a premium of two and a half per cent., and the advantage made upon the whole loan, including that on the lottery tickets, is from ten to eleven per cent. clear profit ; whereby an exorbitant gain arises to individuals at the expense of the public.

For these cogent and unrefuted reasons, we have thought it incumbent upon us to withstand, at the outset, such alarming proceedings ; so repugnant to the principles of economy, and to the spirit of liberty ; and by this solemn testimony to declare, that we are determined, upon all occasions, to endeavour to protect, as far as in us lies, the meanest of our fellow-subjects from oppression of every kind.

Richard Grenville, Earl Temple.

Charles Paulet, Duke of Bolton.

Matthew Fortescue, Lord Fortescue.

CCCXLII.

NOVEMBER 29, 1763.

On the 15th of November, 1763, the day on which Parliament met, the Bishop of Gloucester complained of a breach of privilege, in relation to a certain poem, called 'An Essay on Woman,' to which notes were appended bearing the bishop's name. This production with others was seized under a Secretary of State's warrant at the house of one Kearsley, a printer in Ludgate Street. On the 17th of November, the Lords addressed the King, praying for a prosecution of the author, to which an affirmative answer was given on the 22nd. On the 25th, the Commons desired a conference with the Lords on the subject of the North Briton, and a conference being held, were informed that the Commons had agreed that 'Privilege of Parliament does not extend to the case of writing and publishing seditious libels, nor ought it to be allowed to obstruct the ordinary course of the laws, in the speedy and effectual prosecution of so heinous and dangerous an offence.' (This had been carried in the Commons on the 24th of November by 258 to 133, despite the remonstrances of Pitt.) On the 29th of November, Lord Lyttleton moved, 'that the House agrees with the Commons.' After long debate, the motion was affirmed, apparently without a division.

It produced the following protest.

Because we cannot hear, without the utmost concern and astonishment, a doctrine advanced now for the first time, in this House

which we apprehend to be new, dangerous, and unwarrantable ; viz. that the personal privilege of both Houses of Parliament has never held, and ought not to hold, in the case of any criminal prosecution whatsoever ; by which all the records of Parliament, all history, all the authorities of the gravest and soberest judges, are entirely rescinded ; and the fundamental principles of the Constitution, with regard to the independence of Parliament, torn up and buried under the ruins of our most established rights.

We are at a loss to conceive with what view such a sacrifice should be proposed, unless to amplify, in effect, the jurisdiction of the inferior, by annihilating the ancient immunities of this superior court. The very question itself, proposed to us from the Commons, and now agreed to by the Lords, from the letter and spirit of it, contradicts this assertion ; for, whilst it only narrows privilege in criminal matters, it establishes the principle.

The law of privilege, touching imprisonment of the persons of Lords of Parliament, as stated by the two standing orders, declares generally, 'that no Lord of Parliament, sitting the Parliament, or within the usual times of privilege of Parliament, is to be imprisoned or restrained without sentence or order of the House, unless it be for treason or felony, or for refusing to give security for the peace, and refusal to pay obedience to a writ of Habeas Corpus.'

The first of these orders was made, after long consideration, upon a dispute with the King, when the precedents of both Houses had been fully inspected, commented upon, reported, and entered in the Journals, and after the King's counsel had been heard. It was made in sober times, and by a House of Peers not only loyal, but devoted to the Crown ; and it was made by the unanimous consent of all, not one dissenting. These circumstances of solemnity, deliberation, and unanimity, are so singular and extraordinary, that the like are scarce to be found in any instance among the records of Parliament.

When the two cases of surety for the peace and Habeas Corpus come to be well considered, it will be found that they both breathe the same spirit, and grow out of the same principle.

The offences that call for surety and Habeas Corpus, are both cases of present continuing violence ; the proceedings in both have the same end, viz. to repress the force, and disarm the offender.

The proceeding stops in both when that end is attained.

The offence is not prosecuted nor punished in either.

The necessity is equal in both, and if privilege was allowed in either, so long as the necessity lasts, a Lord of Parliament would enjoy a mightier prerogative than the Crown itself is entitled to. Lastly, they both leave the prosecution of all misdemeanours still under privilege, and do not derogate from that great fundamental, that 'none shall be arrested, in the course of prosecution, for any crime under treason and felony.'

These two orders comprise the whole law of privilege, and are both of them standing orders, and, consequently, the fixed laws of the House, by which we are all bound till they are duly repealed.

The resolution of the other House, now agreed to, is a direct contradiction to the rule of Parliamentary privilege, laid down in the aforesaid standing orders, both in letter and spirit. Before the reasons are stated, it will be proper to premise two observations.

1st, That in all cases where security of the peace may be required, the Lord cannot be committed till that security is refused, and, consequently, the magistrate will be guilty of a breach of privilege if he commits the offender without demanding that security.

2ndly, Although the security should be refused, yet, if the party is committed generally, the magistrate is guilty of a breach of privilege, because the party refusing ought only to be committed till he has found sureties; whereas, by a general commitment, he is held fast, even though he should give sureties, and can only be discharged by giving bail for his appearance.

This being premised, the first objection is to the generality of this resolution, which, as it is penned, denies the privilege to the supposed libeller, not only where he refuses to give sureties, but likewise throughout the whole prosecution, from the beginning to the end; so that, although he should submit to be bound, he may, notwithstanding, be afterwards arrested, tried, convicted, and punished, sitting the Parliament, and without leave of the House, wherein the law of privilege is fundamentally misunderstood, by which no commitment whatsoever is tolerated, but that only which is made upon the refusal of sureties, or in the other excepted cases, of treason or felony, and the Habeas Corpus.

If privilege will not hold throughout in the case of a seditious libel, it must be because that offence is such a breach of the peace, for which sureties may be demanded; and if it be so, it will readily be admitted, that the case comes within the exception, 'Provided always, that sureties have been refused, and that the party is committed only till he shall give sureties.'

But, first, this offence is not a breach of the peace; it does not fall within any definition of a breach of the peace, given by any of the good writers upon that subject; all which breaches, from menace to actual wounding, either alone or with a multitude, are described to be acts of violence against the person, goods, or possession, putting the subject in fear by blows, threats, or gestures. Nor is this case of the libeller ever enumerated in any of these writers among the breaches of peace; on the contrary, it is always described as an Act tending to excite, provoke, or produce breaches of the peace; and although a Secretary of State may be pleased to add the inflaming epithets of treasonable, traitorous, or seditious, to a particular paper; yet no words are strong enough to alter the nature of things. To say then, that a libel, possibly productive of such a consequence, is the very consequence so produced, is, in other words, to declare, that the cause and the effect are the same thing.

2ndly, But if a libel could possibly, by any abuse of language, or has any where been called, inadvertently, a breach of the peace, there is not the least colour to say, that the libeller can be bound to give sureties for the peace, for the following reasons:

Because none can be so bound unless he be taken in the actual commitment of a breach of the peace, striking or putting some one or more of his Majesty's subjects in fear.

Because there is no authority, or even ambiguous hint, in any law-book, that he may be so bound.

Because no libeller, in fact, was ever so bound.

Because no Crown lawyer, in the most despotic times, ever insisted he should be so bound, even in days when the Press swarmed with the most envenomed and virulent libels, and when the prosecutions raged with such uncommon fury against this species of offenders; when the law of libels was ransacked every term; when loss of ears, perpetual imprisonment, banishment, and fines of ten and twenty thousand pounds, were the common judgments in the

Star Chamber, and when the Crown had assumed an uncontrollable authority over the Press.

3rdly, This resolution does not only infringe the privilege of Parliament, but points to the restraint of the personal liberty of every common subject in these realms, seeing that it does, in effect, affirm, that all men, without exception, may be bound to the peace for this offence.

By this doctrine every man's liberty, privileged as well as unprivileged, is surrendered into the hands of a Secretary of State. He is, by this means, empowered, in the first instance, to pronounce the paper to be a seditious libel, a matter of such difficulty, that some have pretended, it is too high to be entrusted to a special jury, of the first rank and condition; he is to understand and decide by himself the meaning of every innuendo; he is to determine the tendency thereof, and brand it with his own epithets; he is to adjudge the party guilty, and make him author or publisher, as he sees good. And, lastly, he is to give sentence by committing the party.

All these authorities are given to one single magistrate, unassisted by counsel, evidence, or jury, in a case where the law says, no action will lie against him, because he acts in the capacity of a judge.

From what has been observed, it appears to us, that the exception of a seditious libel, from privilege, is neither founded on usage or written precedents, and therefore this resolution is of the first impression; nay, it is not only a new law, narrowing the known and ancient rule, but it is likewise a law *ex post facto, pendente lite, et ex parte*, now first declared to meet with the circumstances of a particular case; and it must be farther considered, that this House is thus called upon to give a sanction to the determinations of the other, who have not condescended to confer with us upon this point, till they had pre-judged it themselves.

This method of relaxing the rule of privilege, case by case, is pregnant with this farther inconvenience, that it renders the rule precarious and uncertain. Who can foretel where the House will stop, when they have, by one infringement of their own standing orders, made a precedent, whereon future infringements may, with equal reason, be founded? How shall the subject be able to proceed with safety in this perilous business? How can the judges decide on these or the like questions, if privilege is no longer to be found

in records and journals, and standing orders? Upon any occasion privilege may be enlarged, and no court will venture, for the future, without trembling, either to recognize or to deny it.

We manifestly see this effect of excluding, by a general resolution, one bailable offence from privilege to-day, that it will be a precedent for doing so by another, upon some future occasion, till, instead of privilege holding in every case not excepted, it will, at last, come to hold in none but such as are expressly saved.

When the case of the Habeas Corpus is relied upon, as a precedent to enforce the declaration, the argument only shews, that the mischief aforementioned has taken place already, since one alteration, though a very just one, not at all applicable to the present question, is produced to justify another that is unwarrantable.

But it is strongly objected, that if privilege be allowed in this case, a Lord of Parliament might endanger the Constitution, by a continual attack of successive libels; and if such a person should be suffered to escape, under the shelter of privilege, with perpetual impunity, all Government would be overturned; and therefore it is inexpedient to allow the privilege now, when the time of privilege, by prorogations, is continued for ever, without an interval.

This objection shall be answered in two ways. 1st, If inexpediency is to destroy personal privilege in this case of a seditious libel, it is at least as inexpedient, that other great misdemeanours should stand under the like protection of privilege; neither is it expedient that the smaller offences should be exempt from prosecution in the person of a Lord of Parliament. So that if this argument of inexpediency is to prevail, it must prevail throughout, and subvert the whole law of privilege in criminal matters, in which method of reasoning there is this fault, that the argument proves too much.

If this inconvenience be indeed grievous, the fault is not in the law of privilege, but in the change of times, and in the management of prorogations by the servants of the Crown, which are so contrived, as not to leave an hour open for justice. Let the objection, nevertheless, be allowed in its utmost extent, and then compare the inexpediency of not immediately prosecuting on one side, with the inexpediency of stripping the Parliament of all protection from privilege on the other. Unhappy as the option is, the public would rather wish to see the prosecution for crimes suspended, than

the Parliament totally unprivileged, although, notwithstanding this pretended inconvenience is so warmly magnified on the present occasion, we are not apprised that any such inconvenience has been felt, though the privilege has been enjoyed time immemorial.

But the second and best answer, because it removes all pretence of grievance, is this, that this House, upon complaint made, has the power (which it will exert in favour of justice) to deliver up the offender to prosecution.

It is a dishonourable and an undeserved imputation upon the Lords, to suppose, even in argument, that they would nourish an impious criminal in their bosoms, against the call of offended justice, and the demand of their country.

It is true, however, and it is hoped that this House will always see (as every magistrate ought, that does not betray his trust) that their member is properly charged ; but when that ground is once laid, they would be ashamed to protect the offender one moment. Surely this trust, which has never yet been abused, is not too great to be reposed in the High Court of Parliament ; while it is lodged there, the public justice is in safe hands, and the privilege untouched ; whereas, on the contrary, if, for the sake of coming at the criminal at once, without this application to the House, personal privilege is taken away, not only the offender, but the whole Parliament, at the same time, is delivered up to the Crown.

It is not to be conceived, that our ancestors, when they framed the law of privilege, would have left the case of a seditious libel, as it is called, the only unprivileged misdemeanour. Whatever else they had given up to the Crown, they would have guarded the case of supposed libels, above all others, with privilege, as being most likely to be abused by outrageous and vindictive prosecutions.

But this great privilege had a much deeper reach ; it was wisely planned, and hath hitherto, through all times, been resolutely maintained.

It was not made to screen criminals, but to preserve the very being and life of Parliament. For when our ancestors considered, that the law had lodged the great powers of arrest, indictment, and information in the Crown, they saw the Parliament would be undone, if, during the time of privilege, the royal process should be admitted in any misdemeanour whatsoever ; therefore they excepted

none. Where the abuse of power would be fatal, the power ought never to be given ; because redress comes too late.

A Parliament, under perpetual terror of imprisonment, can neither be free, nor bold, nor honest ; and if this privilege was once removed, the most important question might be irrecoverably lost, or carried, by a sudden irruption of messengers, let loose against the members half an hour before the debate.

Lastly, As it has already been observed, the case of supposed libels is, of all others, the most dangerous and alarming to be left open to prosecution during the time of privilege.

If the severity of the law, touching libels, as it hath sometimes been laid down, be duly weighed, it must strike both Houses of Parliament with terror and dismay.

The repetition of a libel, the delivery of it unread to another, is said to be a publication ; nay, the bare possession of it has been deemed criminal, unless it is immediately destroyed, or carried to a magistrate.

Every Lord of Parliament then, who hath done this, who is falsely accused, nay, who is, though without any information, named in the Secretary of State's warrant, has lost his privilege by this resolution, and lies at the mercy of that enemy to learning and liberty : the Messenger of the Press.

For these, and many other forcible reasons, we hold it highly unbecoming the dignity, gravity, and wisdom of the House of Peers, as well as their justice, thus judicially to explain away and diminish the privilege of their persons, founded in the wisdom of ages, declared with precision in our standing orders, so repeatedly confirmed, and hitherto preserved inviolable by the spirit of our ancestors, called to it only by the other House, on a particular occasion, and to serve a particular purpose, *ex post facto, ex parte, et pendente lite* in the courts below.

Richard Grenville, Earl Temple.

Charles Paulet, Duke of Bolton.

Augustus Henry Fitzroy, Duke of Grafton.

Charles Cornwallis, Earl Cornwallis.

William Henry Cavendish Bentinck, Duke of Portland.

Augustus John Hervey, Earl of Bristol.

William Cavendish, Duke of Devonshire.

Richard Lumley, Earl of Scarborough.

Thomas Barrett Lennard, Lord Dacre.

George Nevile, Lord Abergavenny.

Frederick Cornwallis, Bishop of **Lichfield and Coventry**.
John Ashburnham, Earl of **Ashburnham**.
Matthew Fortescue, Lord **Fortescue**.
Thomas Robinson, Lord **Grantham**.
Horatio Walpole, Lord **Walpole**.
William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
William Bouverie, Viscount **Folkestone**.

CCCXLIII.

MARCH 11, 1766.

On the 8th of December, 1763, 6th of February, 9th of February, 21st of February, 10th of March, 13th of March, 15th of March, 22nd of March, 1764, Mr. George Grenville, First Lord of the Treasury and Chancellor of the Exchequer, introduced a series of resolutions into the Committee of Ways and Means, for the purpose of providing funds for the expenses of the Seven Years' War. These resolutions, forty-five in number, imposed several new taxes on the colonies. The new duties imposed were chiefly on articles of foreign origin, the American plantations, notwithstanding the provisions of the Colonial System, carrying on a profitable clandestine trade with foreign countries. The duties were payable in sterling only, while the plantations carried on their trade in paper. The plea for these innovations was the 'necessary expenses of defending, protecting, and securing the British plantations and colonies in America;' and it was intended that the proceeds of these taxes should be devoted to American purposes. Among the resolutions of the 10th of March, was the following: '14. That towards further defraying the said expenses, it may be proper to charge certain stamp duties in the said colonies and plantations.' It is said that the motive of drawing the resolution in this way was that the colonies might express their opinion on the subject, and offer a compensation for the revenue which such a tax might produce. But the colonists would neither accept the duty, nor offer a substitute, though Franklin, as agent for Pennsylvania, afterwards affirmed that had the King sent requisitional letters to the colonies, he would have obtained more money from the colonies by voluntary grant than he expected from the stamps. The colonists resolved as far as possible to dispense with British manufactures. In the next year, the 7th of February, 1765, fifty-five resolutions were carried in the House, imposing a variety of stamps in the colonies. There was only one division on the Bill in the House of Commons, and only one speech of consequence, that of Colonel Barré, who commented with great severity on Grenville's statement that 'the Americans were children of our own, planted by our care, and nourished by our indulgence.' Some petitions were presented against the Bill, but were rejected, and after passing the Lords without debate, division, or protest, received the royal assent on the 22nd of March. Just at this time, the King had the first attack of that disease which eventually overpowered his reason. In July 1765 Grenville resigned, and Rockingham

came into office. The attitude of the Americans towards the Stamp Act is matter of general history.—See Stanhope, chap. xlv; Parliamentary History, vol. xvi, p. 112. On the 24th of February the House of Commons passed seven resolutions, in which they strongly affirmed the right of Parliament to tax the colonies, censured the conduct of persons in the colonies, but agreed to repeal the Stamp Act in the last resolution, which was carried by 275 to 167. On the 10th of February, the resolutions were reported to the House of Lords, and on the 11th of March, the repeal of the American Stamp Act was committed by 105 to 71.

It produced the following protest.

1st, Because, as this House has in this Session, by several resolutions, most solemnly asserted and declared, first, 'That the King's Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons of Great Britain, in Parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the Crown of Great Britain, in all cases whatsoever.' Secondly, 'That tumults and insurrections of the most dangerous nature have been raised and carried on in several of the North American colonies, in open defiance of the power and dignity of his Majesty's Government, and in manifest violation of the laws and legislative authority of this Kingdom.' Thirdly, 'That the said tumults and insurrections have been encouraged and inflamed, by sundry votes and resolutions passed in several of the assemblies of the said provinces, derogatory to the honour of his Majesty's Government, and destructive of the legal and constitutional dependency of the said colonies on the Imperial Crown and Parliament of Great Britain.' Which resolutions were founded on a full examination of the papers on our table, manifesting a denial of the legislative authority of the Crown and Parliament of Great Britain, to impose duties and taxes on our North American colonies; and a criminal resistance there made to the execution of the commercial and other regulations of the Stamp Act, and of other Acts of Parliament. We are of opinion, that the total repealing of that law, especially while such resistance continues, would (as Governor Bernard says is their intention) 'make the authority of Great Britain contemptible hereafter;' and that such a submission of King, Lords, and Commons, under such circumstances, in so strange and unheard-of a contest, would, in

effect, surrender their ancient unalienable rights of supreme jurisdiction, and give them exclusively to the subordinate provincial legislatures established by prerogative; which was never intended or thought of, and is not in the power of prerogative to bestow; as they are inseparable from the three estates of the Realm assembled in Parliament.

2ndly, Because the law, which this Bill now proposes to repeal, was passed in the other House with very little opposition, and in this without one dissentient voice, during the last Session of Parliament, which we presume, if it had been wholly and fundamentally wrong, could not possibly have happened; as the matter of it is so important, and as the intention of bringing it in had been communicated to the Commons by the first Commissioner of the Treasury the year before; and a resolution, relating and preparatory to it, was then agreed to in that House, without any division.

3rdly, Because, if any particular parts of that law, the principle of which has been experienced and submitted to in this country, without repining, for near a century past, had been found liable to just and reasonable objections, they might have been altered by a Bill to explain and amend it, without repealing the whole. And, if any such Bill had been sent to us by the Commons, we should have thought it our duty to have given it a most serious consideration, with a warm desire of relieving our countrymen in America from any grievance or hardship; but with proper care to enforce their submission and obedience to the law so amended, and to the whole legislative authority of Great Britain, without any reserve or distinction whatsoever.

4thly, Because it appears to us, that a most essential branch of that authority, the power of taxation, cannot be properly, equitably, or impartially exercised, if it does not extend itself to all the members of the State, in proportion to their respective abilities; but suffers a part to be exempt from a due share of those burthens which the public exigencies require to be imposed upon the whole; a partiality which is directly and manifestly repugnant to the trust reposed by the people in every legislature, and destructive of that confidence on which all Government is founded.

5thly, Because the ability of our North American colonies to

bear, without inconveniency, the proportion laid on them by the Stamp Act of last year, appears to us most unquestionable, for the following reasons. First, That the estimated produce of this tax, amounting to sixty thousand pounds per annum, if divided amongst twelve hundred thousand people (being little more than one-half of the subjects of the Crown in North America), would be only one shilling per head a year; which is but a third of the wages usually paid to every labourer or manufacturer there for one day's labour. Secondly, That it appears, by the accounts that have been laid before this House from the commissioners of trade and plantations, that of the debt contracted by those colonies in the last war, above £1,755,000 has already been discharged, during the course of three years only, by the funds provided for that purpose in the several provinces; and the much greater part of the remaining encumbrance, which in the whole is about 760,000 pounds, will be paid in two years more. We must likewise observe, that the bounties and advantages given to them by Parliament in 1764 and 1765, and the duties thereby lost to Great Britain for their service, and, in order to enable them the more easily to pay this tax, must necessarily amount, in a few years, to a far greater sum than the produce thereof. It is also evident that, such produce being wholly appropriated to the payment of the army maintained by this Kingdom in our colonies, at the vast expense of almost a shilling in the pound land tax, annually remitted by us for their special defence and protection; not only no money would have been actually drawn by it out of that country, but the ease given by it to the people of Great Britain, who are labouring under a debt of seventy millions, contracted by them to support a very dangerous war, entered into for the interest and security of those colonies, would have redounded to the benefit of the colonies themselves, in their own immediate safety, and by contributing to deliver them from the necessary expense which many of them have hitherto always borne in guarding their frontiers against the savage Indians.

6thly, Because not only the right, but the expediency and necessity of the supreme legislature's exerting its authority to lay a general tax on our American colonies, whenever the wants of the public make it fitting and reasonable that all the provinces should contribute, in a proper proportion, to the defence

of the whole, appear to us undeniable, from these considerations. First, That every Province being separate and independent on the others, and having no common council empowered by the Constitution of the colonies to act for all, or bind all, such a tax cannot regularly, or without infinite difficulty, be imposed upon them, at any time, even for their immediate defence or protection, by their own provincial assemblies; but requires the intervention and superintending power of the Parliament of Great Britain. Secondly, That in looking forwards to the possible contingency of a new war, a contingency perhaps not far remote, the prospect of the burthens, which the gentry and people of this Kingdom must then sustain, in addition to those which now lie so heavy upon them, is so melancholy and dreadful, that we cannot but feel it a most indispensable duty, to ease them as much as is possible, by a due and moderate exertion of that great right which the Constitution of this Realm has vested in the Parliament, to provide for the safety of all, by a proportionable charge upon all, equally and indifferently laid. We likewise apprehend, that a partial exemption of our colonies from any exercise of this right, by the British legislature, would be thought so invidious, and so unjust to the other subjects of the Crown of Great Britain, as to alienate the hearts of these from their countrymen residing in America, to the great detriment of the latter, who have on many occasions received, and may again want assistance, from the generous warmth of their affection.

7thly, Because the reasons assigned in the public resolutions of the provincial assemblies, in the North American colonies, for their disobeying the Stamp Act, viz. 'That they are not represented in the Parliament of Great Britain,' extends to all other laws, of what nature soever, which that Parliament has enacted, or shall enact, to bind them in times to come, and must, if admitted, set them absolutely free from any obedience to the power of the British legislature. We likewise observe, that in a letter to Mr. Secretary Conway, dated the 12th of October, 1765, the Commander-in-chief of his Majesty's forces in North America has declared his opinion, 'That the question is not of the inexpediency of the Stamp Act, or of the inability of the colonies to pay the tax; but that it is unconstitutional, and contrary

to their rights, supporting the independency of the provinces, and not subject to the legislative power of Great Britain.' It is, moreover, affirmed, in a letter to Mr. Conway, dated the 7th of November, 'That the people in general are averse to taxes of any kind; and that the merchants of that place think they have a right to every freedom of trade which the subjects of Great Britain now enjoy.' This opinion of theirs strikes directly at the Act of navigation, and other subsequent laws, which from time to time have been made on the wise policy of that Act. And should they ever be encouraged to procure for themselves that absolute freedom of trade which they appear to desire, our plantations would become not only of no benefit, but in the highest degree prejudicial to the commerce and welfare of their mother-country. Nor is it easy to conceive a greater encouragement than the repealing of a law, opposed by them on such principles, and with so much contempt of the sovereignty of the British legislature.

8thly, Because the appearance of weakness and timidity in the Government and Parliament of this Kingdom, which a concession of this nature may too probably carry with it, has a manifest tendency to draw on further insults, and by lessening the respect of all his Majesty's subjects to the dignity of his Crown, and authority of his laws, throw the whole British Empire into a miserable state of confusion and anarchy, with which it seems by many symptoms, to be dangerously threatened. And this is the more to be feared, as the plea of our North American colonies, 'that, not being represented in the Parliament of Great Britain, they ought not to pay taxes imposed or levied upon them by the authority thereof,' may, by the same reasoning, be extended to all persons in this island, who do not actually vote for members of Parliament. Nor can we help apprehending, that the opinion of some countenance being given of such notions by the legislature itself, in consenting to this Bill for the repeal of the Stamp Act, may greatly promote the contagion of a most dangerous doctrine, destructive to all Government, which has spread itself over all our North American colonies, that the obedience of the subject is not due to the laws and legislature of the Realm, farther than he, in his private judgment, shall think it conformable to the ideas he has formed of a free Constitution.

9thly, Because we think it no effectual guard, or security, against this danger, that the Parliament has declared, in the resolutions of both Houses, passed during this Session, and now reduced into a Bill, that such notions are ill founded; as men will always look more to deeds than words, and may therefore incline to believe that the insurrections in our colonies, excited by those notions, having so far proved successful as to attain the very point at which they aimed, the immediate repeal of the Stamp Act, without any previous submission on the part of the colonies; the legislature has, in fact, submitted to them, and has only more grievously injured its own dignity and authority by verbally asserting that right which it substantially yields up to their opposition. The reasons assigned for this concession render it still more alarming, as they arise from an illegal and hostile combination of the people of America to distress and starve our manufacturers, and to withhold from our merchants the payment of their just debts; the former of which measures has only been practised in open war between two States, and the latter, we believe, not even in that situation, either by the public, or by individuals, among the civilized nations of Europe, in modern times. If this unprecedented plan of intimidation shall meet with success, it is easy to foresee that the practice of it, for other and still greater objects, will frequently be renewed, and our manufacturers and merchants reduced to the like and more permanent distress. We cannot, therefore, but wish, that some more eligible method, consistent with their future safety, and our dignity, had been taken by Parliament, to shew our tender concern and compassion for their sufferings, and to discourage any other such unwarrantable attempts; which, we are fully persuaded, would have been very practicable, with due care and attention, and at an expense very inferior to the importance of the object.

Lastly, Because we are convinced, from the unanimous testimony of the governors, and other officers of the Crown in America, that if, by a most unhappy delay and neglect to provide for the due execution of the law, and arm the Government there with proper orders and powers, repeatedly called for in vain, these disturbances had not been continued and increased, they might easily have been quieted before they had attained to any dangerous height; and we cannot, without feeling the most lively

sense of grief and indignation, hear arguments, drawn from the progress of evils which should and might have been stopped in their first and feeble beginnings, used for the still greater evil of sacrificing to a present relief the highest permanent interests, and the whole majesty, power, and reputation of Government. This afflicts us the more deeply, because it appears, from many letters, that this law, if properly supported by Government, would, from the peculiar circumstances attending the disobedience to it, execute itself, without bloodshed. And it is said, in one of the letters to Mr. Secretary Conway, 'That the principal view is to intimidate the Parliament; but that if it be thought prudent to enforce their authority, the people dare not oppose a vigorous resolution of the Parliament of Great Britain.' That vigorous resolution has not yet been found in the Parliament; and we greatly fear, that the want of it will certainly produce one of these two fatal consequences; either that the repeal of this law will, in effect, annul and abrogate all other laws and statutes relating to our colonies, and, particularly, the Acts that restrain or limit their commerce, of which they are most impatient; or, if we should hereafter attempt to enforce the execution of those laws against their will, and by virtue of an authority which they have dared to insult with impunity and success, that endeavour will bring upon us all those evils and inconveniences, to the fear of which we now sacrifice the Sovereignty of the Realm, and this at a time when the strength of our colonies, as well as their desire of a total independence on the legislature and Government of their mother-country, may be greatly augmented; and when the circumstances and dispositions of the other Powers of Europe may render the contest far more dangerous and formidable to this Kingdom.

John Russell, Duke of Bedford.
Thomas Thynne, Viscount Weymouth.
George William Coventry, Earl of Coventry.
Nathaniel Curzon, Lord Scarsdale.
Francis Egerton, Duke of Bridgwater.
Richard Grenville, Earl Temple.
George Montagu Dunk, Earl of Halifax.
George Lyttelton, Lord Lyttelton.
John Hobart, Earl of Buckinghamshire.
Alexander Montgomerie, Earl of Eglinton.
Edward Noel, Viscount Wentworth.

Henry Howard, Earl of **Suffolk and Berkshire**.
 John Montagu, Earl of **Sandwich**.
 James Hamilton, Earl of **Abercorn**.
 George Spencer Churchill, Duke of **Marlborough**.
 Frederic St. John, Viscount **Bolingbroke**.
 Robert Trevor Hampden, Lord **Trevor**.
 Vere Beauclerk, Lord **Vere of Hanworth**.
 John Ker, Earl of **Ker** (Duke of **Roxburgh**).
 William Warburton, Bishop of **Gloucester**.
 Edward Leigh, Lord **Leigh**.
 Thomas Newton, Bishop of **Bristol**.
 John Egerton, Bishop of **Bangor**.
 Washington Shirley, Earl **Ferrers**.
 John Waldegrave, Earl **Waldegrave**.
 Richard Grosvenor, Lord **Grosvenor**.
 Heneage Finch, Earl of **Aylesford**.
 George Townshend, Viscount **Townshend**.
 Granville Gower, Earl **Gower**.
 Thomas Villiers, Lord **Hyde**.
 John Ward, Viscount **Dudley and Ward**.
 Charles Lyttelton, Bishop of **Carlisle**.
 Henry Arthur Herbert, Earl of **Powis**.

CCCXLIV.

MARCH 17, 1766.

The repeal of the American Stamp Act Bill was read a third time in the Lords, and passed on the 17th of March, when Lord Lyttelton, the Earl of Bute, and Earl Gower, spoke against the repeal, the Duke of Newcastle for it. It does not appear that a division was taken.

The following protest is inserted.

1st, Because we think that the Declaratory Bill we passed last week, cannot possibly obviate the growing mischiefs in America, where it may seem calculated only to deceive the people of Great Britain, by holding forth a delusive and nugatory affirmance of the legislative right of this Kingdom, whilst the enacting part of it does no more than abrogate the resolutions of the House of Representatives in the North American colonies, which have not in themselves the least colour of authority; and declares that, which is apparently and certainly criminal, only null and void.

2ndly, Because the particular objections which have been made to the Stamp Act in North America, and which have been adopted in the course of the debates upon this Bill for repealing it, are, in fact, contradicted by undeniable evidence upon our table: it having been urged, first, that all the money to be collected by this tax

was to be annually remitted hither, and that the North American colonies would thereby be drained of all their specie; and, secondly, that the institution of Vice-Admiralty Courts in those colonies, for the recovery of penalties upon revenue laws without juries, is a novel practice, by means of which his Majesty's subjects, in those dominions, 'would be deprived of one of their most valuable liberties, trials by juries, and in this respect distinguished from their fellow-subjects in Great Britain;' and would likewise be liable to the greatest inconvenience, vexation, and injustice, through the option left to any prosecutor to call them from one end of that extensive continent to the other; and through the temptation to the judge, to condemn rather than to acquit, from his being paid by poundage of the condemnation-money. Whereas, with regard to the first of these objections, it appears, by the Minute of the late Board of Treasury laid before this House, and dated on the 9th day of July last, that the fullest directions had been sent to the several officers of the revenue, 'that, in order to obviate the inconvenience of bringing into this Kingdom the money to be raised by the Stamp duties, all the produce of the American duties arising or to arise, by virtue of any British Act of Parliament, should, from time to time, be paid to the deputy paymaster in America, to defray the subsistence of the troops, and any military expenses incurred in the colonies.' And, with regard to the second objection, it is manifest, from sundry Acts of Parliament, that a jurisdiction has been assigned to the judges of those Courts, for the recovery of penalties upon the laws of revenue, and of trade, without juries, for near a century past, from the consideration (as we apprehend) that, in some of the colonies, they are the only judges not elected by the people. And so far it is from being true, that the subjects in North America, by being deprived, in these cases, of trials by juries, were, in that respect, distinguished from their fellow-subjects in Great Britain; that, in this very instance of the Stamp duties, the penalties, which by the American Stamp Act were made recoverable without a jury before a judge of the Vice-Admiralty Court, are, by the laws now in force for collecting the Stamp duties in Great Britain, recoverable also without a jury before two justices of the peace, with the like powers in both cases, which we earnestly wish were not still more necessary for the collection of the public revenue in America than in Great

Britain; and which we should be most desirous, if possible, to alleviate in both countries. With this view, and to take away all just occasion for discontent, we were very glad to find, by the representation from the late Commissioners of the Treasury to his Majesty in council, dated on the 4th day of July last, that the strictest attention had been given by that Board, to prevent the inconvenience and injustice above-mentioned, by a plan to establish three different Courts of Vice-Admiralty at the most convenient places, with proper districts annexed to each; and to give the judges sufficient and honourable salaries in lieu of all poundage and fees whatsoever. But we cannot observe, without the highest concern and surprise, that this representation, founded upon a clause inserted in the Stamp Act for this very purpose, and expressly calculated to relieve his Majesty's subjects in North America from many unnecessary hardships and oppressions, to which they are now liable by many other laws still subsisting, should be totally disregarded for several months, and be suffered to remain unexecuted in every part of it, even to this day; and that no notice whatever should be taken, in any of the despatches from the present Administration to the governors of the colonies in North America, of the timely care which had been employed to obviate the objections raised on both these heads; especially as it is notorious, that the measures to be pursued, in consequence of that Minute and representation, has been fully opened and approved in Parliament, at the time when the Stamp Act was proposed; and as the total neglect of it has given occasion to great clamour and dissatisfaction in the colonies. We cannot help further observing, that as the Stamp Act was not to take place till the 1st of November, if the Parliament had been called early, their determinations, either for enforcing or repealing that law, would, probably, have delivered the merchants and manufactures here from all the difficulties and distress to which they have been, for so many months, exposed: nor would the disorders in America, where all government is prostrate, have risen to so great a height, or taken so deep a root.

3rdly, Because the argument which has been used in favour of this Bill of Repeal, that the experiment of the Stamp Act has been tried, and has failed, is extremely ill-founded; as it manifestly appears, from the whole tenor of the papers laid before us, that

if this experiment had been properly tried, with the same zeal for its success with which it was first proposed, it would not have failed in any of the colonies. And that this was the opinion of the greater part of the governors in North America, and of many of the most intelligent and respectable persons in those provinces, for some time after this Act was passed, is evident, beyond a doubt, from the letters of the former now upon our table, and from the latter having applied for, and accepted the office of distributors of the Stamps under that Act, which they certainly would not have done, and thereby have exposed their lives and fortunes to the violence and outrages which they have since undergone, if they had then thought the success of this measure in any degree precarious: nor have we heard of any impracticability attending this law in Jamaica and Barbadoes, and some other of the West India Islands, or in those of our colonies in North America, where it has been executed.

4thly, Because a precedent of the two Houses of Parliament lending their power, from motives of fear or impatience under a present uneasiness, to overturn, in one month, a plan of measures undertaken with their warmest approbation and concurrence, after the most mature deliberation of two years together, for the improvement of our revenue, and the relief of our people, will effectually discourage all officers of the Crown in America from doing their duty, and executing the laws of this Kingdom; and is enough to deter future ministers, in any circumstances of distress or danger to their country, from opposing their fortitude and zeal for the service of the public, to strong combinations of private and particular interests, to the clamour of multitudes, or the malice of faction; which must necessarily bring on such a weakness and pusillanimity in the administration of Government, as will soon end in the downfall and ruin of the State.

Lastly, Because the repeal of this law, under the present circumstances, will, we fear, not only surrender the honour and essential interests of the Kingdom now and for ever, both at home and abroad, but will also deeply affect the fundamental principles of our Constitution. For if we pass this Bill, against our opinion, from the threats and compulsion publicly avowed in our colonies, and enforced by the most unjustifiable means within Great Britain, we disclaim that legislative authority over the subjects, which we

own ourselves unable to maintain. If we give our consent to it here, without a full conviction that it is right, merely because it has passed the other House, by declining to do our duty on the most important occasion which can ever present itself, and where our interposition, for many obvious reasons, would be peculiarly proper, we, in effect, annihilate this branch of the legislature, and vote ourselves useless. Or, if by passing this Bill, we mean to justify those who in America, and even in Great Britain, have treated a series of British Acts of Parliament as so many Acts of tyranny and oppression, which it is scarcely criminal to resist; or those officers of the Crown, who, under the eye, and with the knowledge of Government, have taken upon themselves, whilst the Parliament was sitting, without its consent, to suspend the execution of the Stamp Act, by admitting ships from the colonies, with unstamped clearances, to an entry, in direct violation of it, which, from the papers upon our table, appears to have been done; we shall then give our approbation to an open breach of the first Article of that great Palladium of our liberties, the Bill of Rights; by which it is declared, 'That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.' Lastly, if we ground our proceedings upon the opinion of those who have contended in this House, that from the constitution of our colonies they ought never to be taxed, even for their own immediate defence, we fear that such a declaration, by which near a fifth part of the subjects of Great Britain, who, by the Acts of Parliament to restrain the pressing of seamen in America, are already exempted from furnishing men to our navy, are to be for ever exempted from contributing their share towards their own support in money likewise, will, from the flagrant partiality and injustice of it, either depopulate this Kingdom, or shake the basis of equality, and of that original compact upon which every society is founded. And as we believe that there is no instance of such a permanent exemption of so large a body of the subjects of any State, in any history, ancient or modern, we are extremely apprehensive of the fatal consequences of this unhappy measure; to which, for these reasons, in addition to those contained in the protest of the 11th of this month, our duty to the King, and justice to our country, oblige us to enter this our solemn dissent.

James Hamilton, Earl of **Abercorn**.
 Richard Grenville, Earl **Temple**.
 William Warburton, Bishop of **Gloucester**.
 Thomas Newton, Bishop of **Bristol**.
 Nathaniel Curzon, Lord **Scarsdale**.
 John Hobart, Earl of **Buckinghamshire**.
 John Egerton, Bishop of **Bangor**.
 Richard Trevor, Bishop of **Durham**.
 John Ward, Viscount **Dudley and Ward**.
 Robert Trevor Hampden, Lord **Trevor**.
 Thomas Villiers, Lord **Hyde**.
 Henry Howard, Earl of **Suffolk and Berkshire**.
 George Spencer Churchill, Duke of **Marlborough**.
 Henry Arthur Herbert, Earl of **Powis**.
 John Montagu, Earl of **Sandwich**.
 John Ker, Earl of **Ker** (Duke of **Roxburgh**).
 Charles Lyttelton, Bishop of **Carlisle**.
 George Lyttelton, Lord **Lyttelton**.
 Edward Leigh, Lord **Leigh**.
 William Anne Holles Capell, Earl of **Essex**.
 Francis Egerton, Duke of **Bridgewater**.
 Washington Shirley, Earl **Ferrers**.
 Granville Gower, Earl **Gower**.
 Heneage Finch, Earl of **Aylesford**.
 Thomas Thynne, Viscount **Weymouth**.
 Vere Beauclerk, Lord **Vere of Hanworth**.
 Richard Grosvenor, Lord **Grosvenor**.
 Alexander Montgomerie, Earl of **Eglinton**.

CCCXLV.

JUNE 26, 1767.

A general court of the directors of the East India Company in September, 1766 had carried 'that the dividends which had been for some time 6 per cent. should be raised to 10,' and at the next general court it was urged, says Stanhope (chap. xlv), that no overtures from the Government should be accepted, unless with a further rise to 15 per cent. to be guaranteed for two years. On the 25th of November, 1766, Beckford, at the instance of Lord Chatham, moved for an inquiry into the affairs of the East India Company in a Committee of the whole House. The result of this inquiry was the introduction of a Bill under the title of an Act for payment of £400,000 per annum for two years by the East India Company in respect of territorial acquisitions and revenues lately acquired in the East Indies. The Act, 7 George III, cap. 57, restrained the amount of dividend payable by the Company to 10 per cent.

The following protest was inserted on the passage of the Bill by 59 to 44.

1st, Because the Bill containing, in appearance, nothing but matter of future regulation, is so contrived as to operate retrospec-

tively, and rescind a dividend actually declared by a general court of the East India Company on the 6th of May last, of $6\frac{1}{2}$ per cent. for one half year, ending at Christmas next. This was, in the argument, avowed to be the principal object of the Bill; though the Bill itself does not even mention that Act, or suggest any reason for rescinding it. And we conceive, that if the measure had been substantially right, yet this manner of doing it is unbecoming the dignity of Parliament; which should, in all cases, go openly and directly to its object.

2ndly, Because this measure appears to us to be as exceptionable in the substance as in the form; being an *ex post facto* law, rescinding a legal act of the Company, in the exercise of their dominion over their own property; notwithstanding their application and earnest entreaties to the contrary; and without necessity or occasion from any consideration of private justice or public utility.

3rdly, Because, considering the East India Company as a national object, and the members of it as bound to attend to the interest of the public, as well as their own, the dividend they had voted, and which is by this Bill to be rescinded, appears to be liable to no objection; for the only legal restriction on the Company's power to divide, is, 'that the sum total of all the debts which they shall owe, do not exceed the value of the principal or capital stock or stocks, which shall be and remain undivided;' and it appears by the clearest evidence, that the Company's effects are amply sufficient, not only to discharge every just demand, but that, after even repaying their capital, there will remain a very great surplus.

4thly, Because it appears also to us, that the dividend declared on the 6th of May is expedient; for the dividend being in fact the only medium whereby to fix and compute the price of the stock, as between buyer and seller, justice to both requires such a dividend as will fix that price as near as may be to the real value. And the dividend of $12\frac{1}{2}$ is in that respect preferable to a dividend of 10 per cent. to which this Bill has arbitrarily restrained it.

5thly, Because it appears to us to have been a dividend regularly declared; the objections which have been made to it upon this head being manifestly void of all foundation. We admit, that the court did proceed without an account actually before them; but the want of this account, so far as relates to the propriety of the dividend, appears to have been sufficiently supplied. The Directors, in their negotiations with the Government, and their declarations at

former courts, had themselves proposed such a dividend, and acknowledged the ability of the Company to make it. The proprietors, by these and other means, had full reason to be satisfied of that ability. And the account now produced, examined, and proved, does fully warrant their proceedings, and verify the ideas they then entertained and acted on.

6thly, Because the dividend appears to have been voted by a very numerous Court, and so nearly unanimous, that no ballot was taken, because none was demanded; and no ballot was demanded, because there was not a competent number of proprietors who disapproved the measure; and though, for that reason, the sense of the numbers present only was taken by holding up of hands, it now appears to be beyond a doubt, the confirmed deliberate sense of the Company; having been reconsidered at no less than three subsequent Courts, convened for the purpose of concerting the proper measures to support it; at the two last of which the votes of the Company at large were taken by a regular ballot; and the dividend previously voted, was approved and ratified by a large majority.

To the validity of the act of the 6th of May no objection could be supported, though attempted. It was clearly a valid act; and if not valid, the Bill to rescind it would be unnecessary, for the act of itself would be void.

7thly, Because every argument used to show the impropriety of dividing $12\frac{1}{2}$ applies with equal force to a dividend of 10 per cent. (which the Bill allows) and indeed to any dividend at all; and would, if admitted to be a proper ground for rescinding this dividend, be equally so for rescinding every dividend the Company has ever made, or probably will ever make.

For it is hardly possible, that during the existence of the Company, its debts can be actually paid off, or their cash in hand suffice to discharge those debts, and pay a dividend, and at the same time the trade be carried on to that extent, as will yield to the Company and the public the most ample returns; the whole argument in favour of the Bill being reduced to these two propositions; that the Company ought to discharge its debts before this dividend can be allowed to take place; and that a dividend ought to be made upon a cash account; principles contradicted by the uniform practice of the Company from its commencement.

8thly, Because this Bill cannot be meant for the interest either

of the Company's creditors, or of the proprietors; for it is observable, that the latter, as far as they may be supposed to understand, and may be permitted to judge of their own interests, entertain, and have strenuously expressed a very different sense of that matter. And as to the creditors, it is remarkable, that none of them appear to have called for their money; nor have any of them, by any petition to this House, or otherwise, made any complaint, or signified any desire of such an interposition in their favour. On the contrary, it appeared on evidence, from the cross-examination of the principal witness for the Bill, that so far from doubting of the sufficiency of the security, the greatest evil the Company's bond creditors apprehend is the being paid off; and that their bonds, which some time since bore an high premium, though they carry only 3 per cent. bear at present a premium considerably lower, merely from that apprehension.

9thly, Because a legislative interposition controlling the dividend of a trading Company, legally voted and declared by those to whom the power of doing it is intrusted, and to whom there is no ground to impute an abuse of that power, and who lent their money to the public upon the express stipulation, that they might exercise their discretion with regard to the dividends, provided their effects, undivided, were sufficient to answer their debts; is altogether without example; and, as it tends to lessen the idea of that security and independence of the power of the State, which have induced all Europe to deposit their money in the funds of Great Britain, the precedent may be attended with the most fatal consequences to public credit.

10thly, Because, if a Bill restraining the future dividend of the Company were proper, as has been argued, upon any ideas of fixing and preventing a fluctuation in the price of its stock, that end requires only, that the dividend should be fixed; without any regard to the quantum of it; and may be as well attained by a dividend of $12\frac{1}{2}$ as of 10, and consequently affords no argument for the retrospective part of this Bill, or for fixing the future dividend below the value of the stock. But this is in truth so far from being the real object of any part of the present Bill, that the short period to which the restriction is confined, cannot but increase, instead of preventing that fluctuation, and, instead of checking, encourage the infamous practices of the Alley. The passions of men will be warmly agitated during the summer, in speculating on

the probability of this restriction being suffered to expire at the opening of the next Sessions of Parliament, or being continued further. The ignorant and unwary are sure to be the dupes of those who have the good luck to be in the secret, and are wicked enough to employ it to their own advantage. But the proposal made by the Company, of submitting to a restriction of dividend at the rate of $12\frac{1}{2}$ per cent. and extending that restriction during the temporary agreement, would have obviated all those mischiefs, and secured every good end, which may have been proposed, but cannot be attained by this Bill; and as the Bill, in its regulations of that Property, would in that case have been supported by their consent, it would have been liable to no objections of injustice or violence.

11th, Because, if at the opening of the next Session of Parliament, the restriction is permitted to expire, the whole effect of the Bill, except the mischiefs it may produce, will be the keeping back for four or five months, from the pockets of those to whom it belongs, a sum of £40,000 the difference between the dividend the Company wishes, and that which it is allowed to make by the Bill. This sum is ridiculously disproportioned to any real purpose of paying off and reducing the Company's debts. But if, on the other hand, the restriction is then to be continued, and the Parliament henceforward to regulate the dividend of the Company, and the whole of their affairs for that purpose is to be from time to time laid open to public examination, it is not difficult to foresee the ruinous consequences to the Company; and as the precedent will go to the subjecting every other Company to the same sort of control, the speedy dissolution of them all will be perhaps the happiest event the public can wish, that they may not become so many engines of power and influence, the consequences of which it is easy to conceive, and unnecessary to describe.

12th, Because the argument in favour of this limitation, drawn from a supposition, that the Company had exceeded their legal power of borrowing on their bonds, appears to us to be neither founded nor conclusive. It appears, on the natural construction of the Engrafting Act, that they have kept within the legal powers given them by that Act, and which have been recognised, as we conceive, by other Acts of Parliament. And we cannot comprehend the justice, the policy, or the decorum, of quarrelling at this particular time, at the exercise of a power publicly exerted, and

which has come frequently within the cognizance, without incurring the censure of Parliament. And as there has been hitherto no judgment in law, or even any suit, complaint, or petition whatsoever, upon this matter, we are fearful lest this objection might not seem to arise from the illegality of the borrowing, but from the necessity of such a supposition, in order to find a pretence, however insufficient, for this limitation.

13th, Because, the inability of the Company to make the dividend rescinded by this Bill has been argued on a supposition, that the right to the territorial acquisitions of the Company, in the East Indies, is not in that Company, but in the public; which method of arguing, if admitted as one of the grounds of the Bill, we conceive to be inconclusive as to the subject matter, and highly dangerous as to the precedent; for the Company being in possession, and no claim against them being so much as made, much less established, we hold it highly dangerous to the property of the subjects, and extremely unbecoming the justice and dignity of this House, by extrajudicial opinions, to call into question the legality of such a possession; and to act without hearing, as if this House had decided against it.

14th, Because the forms of proceeding upon this Bill have been contrary to precedent; inasmuch as it appears by our Journals, that whenever a Bill, judicial in its nature, as affecting legal rights and private property, has come up from the Commons, stating no facts as a ground for that Bill, or stating facts, the evidence of which does not appear in the preamble, the invariable practice of this House has been to desire a conference with the other, in order to be informed either of the facts, or the evidence to support such facts, if alleged, on which the Bill was originally framed; and the Commons have on like occasions done the same by this House. Instances of this mutual application from one House to the other, appear in the following cases, viz. Mr. Duncomb's case, March, 1697. Directors of the South Sea Company, Aislabie and Craggs, July, 1721. Sir Thomas Cooke's case, 1695. Cases of Kelly, Plunkett, and Bishop of Rochester, March, 1722. Bambridge's case, April, 1729. Robinson and Thompson's case, March, 1731. Sale of Lord Derwentwater's estates, &c., 1732. Case of Sir Robert Sutton, and others, March, 1732. Case of Alexander Wilson, and the city of Edinburgh, May, 1737.

15th, Because in the proceedings on this Bill, no counsel was appointed in support of the Bill, to state the grounds, to examine the witnesses, and methodise the evidence; for want of which the Lords themselves were obliged to call and examine witnesses, and appear more like parties concerned than judges.

16th, Because also, in the proceedings on this Bill, when Lords, who declared themselves patrons and friends to the Bill, had examined two witnesses, and said they were satisfied with their examination, other Lords were not permitted to call in any other witnesses, before the counsel for the East India Company, against this Bill, were ordered to proceed. It was even denied to Lords to bring again to the Bar the two gentlemen who had been examined (Mr. Rous, the chairman, and Mr. Saunders, the deputy chairman of the Company), although by the arrival of the ship Cruttenden from Bengal, after their examination, which brought a new and very particular account of the flourishing state of the Company's affairs in India, it was very possible those gentlemen might have changed their opinion; their former evidence having been merely matter of opinion resulting from such information as they were at that time possessed of. Witnesses were dismissed unexamined, whom several Lords wished to have been heard; and the Bill was passed, without waiting for the return of an account, declared by Mr. Rous to be such, that without it no judgment of the present state of the affairs of the Company could be formed, and which had been ordered by the House, and as the officers informed the House, might have been prepared in a few days. In this manner this Bill has passed, which we are apprehensive may be found in its consequences very injurious to private property, and alarming to public credit.

Daniel Finch, Earl of Winchilsea and Nottingham.

Richard Lumley, Earl of Scarborough.

Robert Trevor Hampden, Lord Trevor.

Richard Grenville, Earl Temple.

Matthew Fortescue, Lord Fortescue.

Charles Lennox, Duke of Richmond.

John Ward, Viscount Dudley and Ward.

Thomas King, Lord King.

Thomas Thynne, Viscount Weymouth.

Granville Gower, Earl Gower.

Frederic Keppel, Bishop of Exeter.

William Henry Cavendish Bentinck, Duke of Portland.

Lewis Monson Watson, Lord Sondes.
Charles Sackville, Duke of Dorset.
Charles Watson Wentworth, Marquis of Rockingham.
George Keppel, Earl of Albemarle.
Alexander Montgomerie, Earl of Eglinton.
George Neville, Lord Abergavenny.
William Ponsonby, Lord Ponsonby (Earl of Bessborough).

CCCXLVI.

FEBRUARY 8, 1768.

In this year, it was again determined to limit the dividend of the East India Company, as in 1767. The Company petitioned against the Act on the 15th of January, and shewed that by their charter they were entitled to declare their own dividends, assuring the House that they will make no increase in the dividends, unless the state of their affairs warranted it. The Bill was carried by a large majority in the Commons, and though opposed strongly in the Peers, seems to have been passed without a division.

The following protest was entered.

1st, Because this Bill is an exertion of the supreme power of Parliament, equally unnecessary and dangerous, after having had the most mortifying experience of the pernicious operation of a like restriction last year, which increased the very mischief it was intended to remedy, at a time too, when the circumstances of the Company are clear beyond a doubt, and their opulence verified beyond the most sanguine expectation: no supposed misconduct of the Company calling for the interposition of Parliament; no rash and excessive dividends declared; no increase of dividends even desired. On the contrary, the Company has restrained itself on principles much more rational than those adopted by the Bill, as they have a reference to their circumstances, and not to a fixed period of time, marked by an arbitrary resolution. We cannot therefore avoid considering this Bill as a mere act of power, without a colour of delinquency on the part of the Company, or of necessity on the part of the public.

2ndly, Because it appears to us, that this Bill is a high violation of the national faith, taking away, without any judicial process, or even any criminal charge, that power of declaring dividends, which the Company purchased from the public for a valuable consideration.

3rdly, Because it appears to us altogether unaccountable, to pass in one year an Act for regulating the modes and conditions of declaring dividends by the Company; and, in the very next year,

to prohibit the exercise of those very powers so regulated. This Act is now in full force; no defect in it has been stated; no amendment has been proposed; no infraction has been pretended. This law, made expressly to regulate the method of declaring dividends, does of necessity imply the exercise of that right under the conditions therein prescribed, which cannot be taken from the East India Company, without the most signal disgrace to the wisdom and good faith of the legislature, and the subversion of every principle of legal government.

4thly, Because it appears to us, that to restrain the subject in the disposition of his own property, without any other pretence than the mere possibility of abuse (this Bill having been chiefly defended upon that ground), is a principle unheard of in any free country, and most alarming to all the trading and monied interests of this Kingdom. It goes to the subjecting to the same restraint, on the same loose reasons, every great company, as well as every public or private stock, which may become of magnitude sufficient to tempt, in future times, an impoverished Treasury, and a rapacious administration, since no degree of innocence can be a security against such suspicion of a possible fraud; and such a suspicion may be made a ground for continuing an arbitrary restraint, until the subject shall consent to ransom his property on such terms as shall be prescribed to him.

5thly, Because this annual restraint tends to establish a perpetual interposition of Parliament in declaring dividends for this Company, and indeed all companies whatsoever, to the increase of that most dangerous and infamous part of stock-jobbing, which is carried on by clandestine intelligence, and to the vesting it in the worst of all hands, those of Administration; for a Minister, who shall hereafter acquire in Parliament (by whatever means) sufficient influence for the purpose, may, by his power of increasing, diminishing, or withholding dividends at his pleasure, have all the stockholders in these companies (a body extremely considerable for wealth and numbers) entirely at his mercy, and probably at his disposal, to the infinite increase of the already overgrown, and almost irresistible influence of the Crown.

6thly, Because we apprehend that this unprecedented practice of declaring dividends in Parliament, may become a more alarming mode of undue influence on the members themselves, than any of

those which have hitherto so frequently excited the jealousy of the legislature, since it furnishes a fund of corruption far greater than any hitherto known; a fund in its nature inexhaustible, of the greatest facility in the application, and quite out of the reach of all discovery and prosecution. We think the principle of this Bill the first step towards the introduction of such a new system of corruption, and have therefore resisted it, lest the Constitution should become totally perverted from the ends for which it was originally established, and be no longer venerated by this nation, as giving security to liberty and property, and protection to the subject from all violence and injustice on the part of Government.

Daniel Finch, Earl of **Winchilsea and Nottingham**.
 Charles Lennox, Duke of **Richmond**.
 William Legge, Earl of **Dartmouth**.
 Thomas King, Lord **King**.
 William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 William Henry Cavendish Bentinck, Duke of **Portland**.
 Charles Watson Wentworth, Marquis of **Rockingham**.
 John Monson, Lord **Monson**.
 George Lyttelton, Lord **Lyttelton**.
 Richard Grenville, Earl **Temple**.
 Frederic Keppel, Bishop of **Exeter**.

CCCXLVII.

FEBRUARY 27, 1769.

James Douglas, second Marquis of Douglas, had by his second wife two sons and a daughter. One son died young; the other became third Marquis, and eventually Duke of Douglas. The daughter, Jane, married Colonel Stewart, a dissipated person, and was reduced to great poverty. She was said to have borne twins on the 10th of July, 1748, one of whom died. The mother died in 1753, being then fifty-six years old, and having had a miscarriage subsequently to the birth of the twins. When Archibald Douglas, Duke of Douglas, died in 1761, the boy was returned heir to his uncle; but the Duke of Hamilton disputed the return on the ground that the child was supposititious. The Scotch Courts gave their decision in favour of the Duke of Hamilton; but on appeal to the Lords the decision was reversed, Lords Camden and Mansfield speaking powerfully on behalf of the appellant.

The case excited great attention, and was commented on during trial in several pamphlets, printed by Dixwell, Wilkie, and E. and C. Dilly, on behalf of William Bogle and Francis Douglas. These persons, as far as they could be reached, were reprimanded by the Lord Chancellor, and ordered to deliver up the copies in their possession on the 1st of December. Archibald Stewart was subsequently created Lord Douglas, and the title became extinct in 1857.

The proceedings at the first trial were published in Edinburgh in four vols. 4to.

The following protest was inserted. It was held at the time to be irregular that the lay lords should vote on a legal question. See Carlyle's Autobiography on this case.

1st, Because, upon the whole of the evidence it appears to us, that the appellant has not proved himself to be the son of Lady Jane Douglas, and consequently not entitled to the character and heir of Tailzie and provision to Archibald, Duke of Douglas.

2ndly, Because we are of opinion that it is proved, that the appellant is not the son of Lady Jane Douglas.

John Russell, Duke of Bedford.

Augustus John Hervey, Earl of Bristol (Lord Privy Seal).

John Montagu, Earl of Sandwich.

John Murray, Earl of Dunmore.

Joseph Damer, Lord Milton.

CCCXLVIII.

JANUARY 15, 1770.

Lord Camden was Chancellor of the Duke of Grafton's administration, but had strongly opposed the attitude of the Government in the case of Wilkes. In 1769, the Administration had succeeded in the resolution which expelled Wilkes from the House, and to which they were strongly urged by the King. Between the 3rd of February and the 14th of April, the electors of Middlesex returned him again and again, but his name was by order of the House of Commons erased from the writ, and that of Mr. Luttrell substituted on the 15th of April. During the autumn, disaffection became general in the American colonies, and at the reassembling of Parliament on the 9th of January, Chatham took his place in the House of Lords. He attacked the Ministry on their conduct of American affairs, and for the expulsion of Wilkes. The speech was followed by a declaration of Lord Camden, in which he assailed the Ministry with great warmth. The result was a ministerial crisis, the break up of the Duke of Grafton's Ministry, and the accession of Lord North to power. Camden was deprived of the Seals, which were given to Charles Yorke, whose patent for the title of Lord Morden was forthwith ordered. Three days afterwards, on the 20th of January, he committed suicide. On the 15th of January, six days after Chatham's speech, Lord Rockingham moved a call of the House for Wednesday, the 17th of January, on which a counter motion was made by Lord Weymouth, 'that the House be adjourned for a week.' This was carried. On the 10th of February, Lord North became Prime Minister. See Hallam's Constitutional History, chap. xvi. p. 111.

The following protest was inserted.

1st, Because the noble Lord who moved the House on Monday

last, that the Lords should be summoned for Wednesday, had declared in his speech, that he meant on that day to make a motion, which in its consequences would afford the opportunity of bringing under consideration of the House, many matters of the most essential concern to the happiness of this country; and we think that this House ought not, at any time, to refuse the request of a Peer, who desires that the House may be summoned upon a motion which he promises to make, and which he declares to be of importance.

And we are the better warranted in this opinion, as we apprehend, that in fact there are no instances of the House rejecting a motion for the Lords to be summoned.

2ndly, Because several Lords in administration being sensible of the indecency and novelty of directly rejecting such a motion, chose to get it rejected indirectly, by that parliamentary management of moving to adjourn to a long day; and we conceive such an artful conduct unworthy of a House of Parliament at any conjuncture, but to be particularly so in the present moment, when his Majesty, in his Speech, has recommended several matters of the most serious nature to our immediate consideration, and when the universal discontent of the nation (on account of certain arbitrary and illegal proceedings, whereby their most valuable rights are subverted) threatens some near and dangerous crisis.

In this moment, and when the House has not sat one day to do any other business than sending a complimentary address to the Crown, when it had already adjourned for almost one week, to adjourn for another, will, we conceive, tend to damp the hopes of that relief, for which the people do, and ought in their present situation, to look up to this House: as it indicates an unwillingness to enter upon matters of the highest importance to the peace and welfare of the Kingdom, affords a bad prognostic of the protection which this House owes to the rights and liberties of the subject; and shews that we are more attentive to the conveniences of administration, than to the real grievances of the people.

3rdly, Because, although no reason was alleged for this uncommon proceeding, one was hinted at, of an extraordinary nature indeed, whereby we are made to understand that this delay of a week was necessary for Administration to settle arrangements relative to an office, which was so closely connected with this House, that it could not sit without the officer.

It is difficult for us to give our sentiments upon a matter which the Lord who mentioned it, though called upon, refused to explain. But when we reflect that this hint came from a noble Lord in high and confidential office, we think it could have alluded only to the removal of the Lord High Chancellor of England, the Speaker of this House, and when we recollect the part so honourable to himself, but perhaps so offensive to Administration, which that noble Lord had taken the first day of this Session; we cannot but be apprehensive that there may be some evil counsellor, hardy enough to attempt punishments for freedom of debate in Parliament; and to dare advise his Majesty to remove from his office a Peer of this House, at the head of the law, for his vote in Parliament.

Charles Lennox, Duke of **Richmond**.

Richard Lumley, Earl of **Scarborough**.

Matthew Fortescue, Lord **Fortescue**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

George Montagu, Duke of **Manchester**.

Charles Watson Wentworth, Marquis of **Rockingham**.

William Henry Cavendish Bentinck, Duke of **Portland**.

William Petty, Lord **Wycombe** (Earl of Shelburne).

Richard Grenville, Earl **Temple**.

George Keppel, Earl of **Albemarle**.

Harry Paulet, Duke of **Bolton**.

CCCXLIX.

FEBRUARY 2, 1770.

On this day, Lord Rockingham moved a resolution 'that the House of Commons in the exercise of its judicature in matters of election is bound to judge according to the law of the land, and the known and established custom of Parliament, which is part thereof.' He was opposed by Lord Sandwich, who quoted the cases of the Earl of Middlesex and Lord St. Albans in the time of James I, as cases of expulsion from the Lords, without any exhibition of resentment on the part of the Commons. Lord Chatham made a forcible reply, but the motion was negatived by 47 to 96. Woolaston was member for Whitchurch, and was expelled on the 20th of February, 1699, because he was a receiver of taxes; Walpole, member for King's Lynn, on the 15th of January, 1712, for 'notorious corruption,' and by vote of the 7th of March, 1712, declared 'incapable of sitting in this present Parliament.'

1st, Because the resolution proposed was in our judgment highly necessary to lay the foundation of a proceeding which might tend to quiet the minds of the people, by doing them justice, at a time when the decision of the other House, which appears to us inconsistent with the principles of the Constitution, and irreconcilable

to the law of the land, has spread so universal an alarm, and produced so general a discontent throughout the Kingdom.

2ndly, Because, although we do not deny that the determination on the right to a seat in the House of Commons is competent to the jurisdiction of that House alone, yet, when to this it is added, that whatever they in the exercise of that jurisdiction think fit to declare to be law, is therefore to be considered as law, because there lies no appeal, we conceive ourselves called upon to give that proposition the strongest negative; for if admitted, the law of the land (by which all courts of judicature, without exception, are equally bound to proceed) is at once overturned, and resolved into the will and pleasure of a majority of one House of Parliament; who, in assuming it, assume a power to over-rule at pleasure the fundamental right of election, which the Constitution has placed in other hands, those of their constituents: and if ever this pretended power should come to be exercised to the full extent of the principle, that House will be no longer a representative of the people, but a separate body altogether independent of them, self-existing and self-elected.

3rdly, Because we are told that expulsion implies incapacity, and the proof insisted upon is, that the people have acquiesced in the principle by not re-electing persons who have been expelled; we equally deny the position as false, and reject the proof offered as in no way supporting the position to which it is applied. We are sure the doctrine is not to be found in any statute or law-book, nor in the Journals of the House of Commons, neither is it consonant with any just or known analogy of law. And as not re-electing would at most but infer a supposition of the electors' approbation of the grounds of the expulsion, and by no means their acquiescence in the conclusion of an implied incapacity, so were there not one instance of a re-election after expulsion but Mr. Woolaston's, that alone demonstrates that neither did the constituents admit, nor the House of Commons maintain incapacity to be the consequence of expulsion. Even the case of Mr. Walpole shews, by the first re-election, the sense of the people, that expulsion did not infer incapacity; and that precedent too, which is the only one of a declaration of incapacity, produced as it was, under the influence of party violence, in the latter days of Queen Anne, in so far as it relates to the introduction

of a candidate having a minority of votes, it decides expressly against the proceedings of the House of Commons in the late Middlesex Election.

4thly, Because, as the Constitution hath been once already destroyed by the assumption and exercise of the very power which is now claimed, the day may come again when freedom of speech may be criminal in that House, and every member who shall have virtue enough to withstand the usurpations of the time, and assert the rights of the people, will for that offence be expelled by a factious and corrupt majority; and by that expulsion rendered incapable of serving the public: in which case the electors will find themselves reduced to the miserable alternative of giving up altogether their right of election, or of choosing only such as are enemies of their country, and will be passive at least, if not active, in subverting the Constitution.

5thly, Because, although it has been objected in the debate, that it is unusual and irregular in either House of Parliament to examine into the judicial proceedings of the other, whose decisions, as they cannot be drawn into question by appeal, are, it is said, to be submitted to without examination of the principles of them elsewhere; we conceive the arguments go directly to establish the exploded doctrine of passive obedience and non-resistance, which, as applied to the acts of any branch of the supreme power, we hold to be equally dangerous; and though it is generally true, that neither House ought lightly and wantonly to interpose even an opinion upon matters which the Constitution hath entrusted to the jurisdiction of the other, we conceive it to be no less true, that where under colour of a judicial proceeding, either House arrogates to itself the power of the whole legislature, and makes the law which it professes to declare; the other not only may but ought to assert its own right and those of the people; that this House has done so in former instances, particularly in the famous case of Ashby and White, in which the first resolution of the Lords declares, 'that neither House of Parliament hath any power by any vote or declaration to create to themselves any new privilege that is not warranted by the known laws and customs of Parliament.' We ought to interfere at this time, the rather as our silence on so important and alarming an occasion might be interpreted into an approbation of the

measure, and be a means of losing that confidence with the people which is so essential to the public welfare, that this House, the hereditary guardians of their rights, should at all times endeavour to maintain.

6thly, Because, upon the whole, we deem the power, which the House of Commons have assumed to themselves, of creating an incapacity, unknown to the law, and thereby depriving, in effect, all the electors of Great Britain of their invaluable right of free election, confirmed to them by so many solemn statutes, a flagrant usurpation, as highly repugnant to every essential principle of the Constitution, as the claim of ship-money by King Charles I, or that of the suspending and dispensing power by King James II. This being, indeed, in our opinion, a suspending and dispensing power assumed and exercised by the House of Commons, against the ancient and fundamental liberties of the Kingdom.

Richard Grenville, Earl Temple.
Henry Howard, Earl of Suffolk and Berkshire.
John Talbot Touchet, Lord Audley (Earl of Castlehaven).
Heneage Finch, Earl of Aylesford.
William Craven, Lord Craven.
William Wentworth Fitzwilliam, Earl Fitzwilliam.
Charles Pratt, Lord Camden.
Richard Trevor Hampden, Lord Trevor.
William Henry Cavendish Bentinck, Duke of Portland.
Charles Watson Wentworth, Marquis of Rockingham.
Charles Lennox, Duke of Richmond.
Frederic Augustus Berkeley, Earl of Berkeley.
William Bouverie, Earl of Radnor.
Francis Hastings, Earl of Huntingdon.
Sackville Tufton, Earl of Thanet.
George Neville, Lord Abergavenny.
George Lyttelton, Lord Lyttelton.
Edmund Boyle, Lord Boyle (Earl of Cork and Orrery).
George William Coventry, Earl of Coventry.
John Hobart, Earl of Buckinghamshire.
George Harry Grey, Earl of Stamford.
Joseph Damer, Lord Milton.
John Ewer, Bishop of Bangor.
Hugh Percy, Duke of Northumberland.
Frederic Keppel, Bishop of Exeter.
Richard Grosvenor, Lord Grosvenor.
George Byng, Viscount Torrington.
Charles Bennet, Earl of Tankerville.
Thomas Howard, Earl of Effingham.

Andrew Archer, Lord **Archer**.
 Matthew Fortescue, Lord **Fortescue**.
 Harry Paulet, Duke of **Bolton**.
 William Petty, Lord **Wycombe** (Earl of Shelburne).
 Thomas King, Lord **King**.
 George Montagu, Duke of **Manchester**.
 Henry Frederic Howe, Lord **Chedworth**.
 William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 William Pitt, Earl of **Chatham**.
 Thomas Villiers, Lord **Hyde**.
 John Monson, Lord **Monson**.
 George Keppel, Earl of **Albemarle**.
 Richard Lumley, Earl of **Scarborough**.

CCCL.

FEBRUARY 2, 1770.

Immediately on the motion of Lord Rockingham being disposed of, Lord Marchmont moved, it being past midnight, that 'any resolution of this House directly or indirectly impeaching a judgment of the House of Commons in a matter where their jurisdiction is competent, legal, and exclusive, would be a violation of the constitutional rights of the Commons, tends to make a breach between the two Houses of Parliament, and leads to general confusion.' He was supported by Lord Mansfield, and opposed by Lord Chatham, who in the course of his speech having lauded the characters of Somers and Chief Justice Holt, turned to Lord Mansfield, and asserted that he believed the noble Lord equalled them both in abilities. Lord Sandwich attacked Camden, who defended himself. After a vain attempt to adjourn the debate, the resolution was carried at half-past one.

The following protest was inserted.

1st, Because we apprehend that the rights and powers of the Peerage are not given for our own particular advantage, but merely as a constitutional trust, to be held and exercised for the benefit of the people, and for the preservation of their laws and liberties; and we should hold ourselves betrayers of that trust, unworthy of our high rank in the Kingdom, and of our seats in this House, if we considered any one legal right of the subject, much less the first and most important of all their rights, as a matter indifferent and foreign to the Peers of this Kingdom.

2ndly, Because by this resolution it is declared to the world, that if the House of Commons should change the whole law of election, should transfer the rights of the freeholders to copyholders and leaseholders for years, or totally extinguish those rights by an arbitrary declaration; should alter the constitution of cities and

boroughs with regard to their elections ; should reverse not only all the franchises of suffrage which the people hold under the common law, but also trample upon the sanctions of so many Acts of Parliament made for declaring and securing the rights of election ; that even in such a critical emergency of the constitution, the people are to despair of any relief whatsoever from any mode of direct or indirect interference of this House.

3rdly, Because by this resolution the House not only refuses to stand by the people, in case they should suffer the most grievous injuries from their representatives, but it abdicates its ancient and unquestioned province and duty of the Hereditary Council to the Crown, rendering itself unable to give its advice in a point in which, of all others, the King may stand in the greatest need of the wisdom and authority of the Peers, a point such as the present, in which numbers of the constituents have, in a manner agreeable to law, carried up their complaints to the Throne against their representatives.

4thly, Because by the said resolution we do a most material injury to the House of Commons itself ; the resolution, by the studied latitude of the words 'directly or indirectly to impeach,' puts it out of the power of the Lords to offer, either in the present or in any future unfortunate difference between them and their constituents, even in the way of friendly conference, our amicable and healing mediation ; the want of which may be a means of letting such difference run to extremities, fatal to the House of Commons itself, to the constitution, and to the nation.

5thly, Because we consider ourselves also, as an House of Parliament, to be most materially interested that the people should be legally and constitutionally represented ; for as the House of Commons makes an essential part of Parliament, if that House should come to be chosen in a manner not agreeable to the laws and constitution of the Kingdom, the authority of Parliament itself must suffer extremely, if not totally perish ; the Peers can no more in their legislative capacity, do any valid act, without a legal House of Commons, than without a legal Prince upon the Throne.

6thly, Because by this resolution, the constitutional control has been given up, which this House, as appears by ancient and recent precedents have constantly claimed and exercised, and for the purpose of which, the legislature has been divided into separate

branches. We are far from denying such a reciprocity of control in the other House, even in matters within our separate and final jurisdiction, neither arrogating to ourselves, nor acknowledging in others any power distinct from or above the law of the land. But we cannot behold without the utmost shame and indignation, this House making a voluntary surrender of its most undoubted legal, necessary, and sacred rights, not only omitting, but refusing to examine precedents; not previously desiring a conference with the other House, to discover whether they were inclined to admit in this House a correspondent immunity from interposition on their part, in matters within the particular jurisdiction of the Peers. These proceedings are as derogatory from the dignity of the House, as they are contrary to its duty and its interest; they cannot fail of lowering this House, in the opinion of mankind, who will not believe that the Peers can have any attention to the welfare of the people, when they have shown so little regard to their own honour. This resolution must tend to forward that plan which, with great uneasiness, we have seen for a long time systematically carried on, for lowering all the constitutional powers of the Kingdom, rendering the House of Commons odious, and the House of Peers contemptible.

7thly, Because the impropriety of this resolution was infinitely aggravated, by the sudden and surreptitious method by which it was brought into, and carried through this House. That a resolution, new in matter, wide in extent, weighty in importance, involved in law and Parliamentary precedents, should be moved at midnight, after the House was spent with fatigue of a former debate: that an adjournment of only two days, to enable the Lords to consult the Journals on this important point, should be refused, and that an immediate division should be pressed, are circumstances which strongly mark the opinion of the movers upon the merits of their own proposition; such a proceeding appears to us altogether unparliamentary and unjust; as it must, in every instance where it is practised, preclude all possibility of debate, and when by this means all argument and fair discussion is suppressed, the deliberations of this House will degenerate into silent votes.

We think ourselves, therefore, as Peers, and as Englishmen and freemen (names as dear to us as any titles whatsoever) indispensably obliged to protest against a resolution utterly subversive of the

authority and dignity of this House, equally injurious to the collective body of the people, to their representatives, and to the Crown, to which we owe our advice upon every public emergency—a resolution, in law unconstitutional, in precedent not only unauthorised but contradicted; in tendency ruinous; in the time and manner of obtaining it unfair and surreptitious. And we here solemnly declare and pledge ourselves to the public, that we will persevere in availing ourselves, as far as in us lies, of every right, and every power, with which the constitution hath armed us, for the good of the whole, in order to obtain full relief for the injured electors of Great Britain, and full security for the future against this most dangerous usurpation upon the rights of the people, which, by sapping the fundamental principles of this Government, threatens its total dissolution.

Charles Lennox, Duke of **Richmond**.
William George Cavendish Bentinck, Duke of **Portland**.
William Bouverie, Earl of **Radnor**.
Charles Pratt, Lord **Camden**.
Sackville Tufton, Earl of **Thanet**.
George Lyttelton, Lord **Lyttelton**.
John Talbot Touchet, Lord **Audley** (Earl of Castlehaven).
Frederic Keppel, Bishop of **Exeter**.
George Harry Ley, Earl of **Stamford**.
John Ewer, Bishop of **Bangor**.
Thomas Howard, Earl of **Effingham**.
William Craven, Lord **Craven**.
Matthew Fortescue, Lord **Fortescue**.
George William Coventry, Earl of **Coventry**.
George Byng, Viscount **Torrington**.
William Petty, Lord **Wycombe** (Earl of Shelburne).
Richard Grenville, Earl **Temple**.
Thomas King, Lord **King**.
Charles Bennet, Earl of **Tankerville**.
George Montagu, Duke of **Manchester**.
Henry Frederic Howe, Lord **Chedworth**.
William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
Andrew Archer, Lord **Archer**.
William Pitt, Earl of **Chatham**.
Thomas Villiers, Lord **Hyde**.
John Monson, Lord **Monson**.
William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
George Keppel, Earl of **Albemarle**.
Richard Lumley, Earl of **Scarborough**.
Francis Hastings, Earl of **Huntingdon**.
Charles Watson Wentworth, Marquis of **Rockingham**.
George Neville, Lord **Abergavenny**.

Edmund Boyle, Lord Boyle (Earl of Cork and Orrery).

Richard Trevor Hampden, Lord Trevor.

Joseph Damer, Lord Milton.

Hugh Percy, Duke of Northumberland.

Heneage Finch, Earl of Aylesford.

Frederic Augustus Berkeley, Earl of Berkeley.

Harry Paulet, Duke of Bolton.

Richard Grosvenor, Lord Grosvenor.

On the 7th of February, Lord Sandwich moved 'that William George Edmunds of Shoe Lane, Fleet Street, the printer of the Middlesex Journal or Chronicle of Liberty, from Saturday, the 3rd of February to Tuesday, the 6th of February, be ordered to attend.' This person had printed the protests of the 2nd of February. Lord Sandwich moved that the order of the 27th of February, 1698, be read, in which the rule was laid down that to print any part of the proceedings of the House without leave, was a breach of privilege. Lord Chatham and others defended the printer, but the motion was carried. Edmunds kept out of the way for a time, but subsequently surrendered, and on his refusing to give the name of the person who directed him to print the protests, was fined £100, and sent to Newgate for a month. Soon afterwards, as is well known, Wilkes practically settled the question.

CCCLI.

MAY 1, 1770.

On this day, Lord Chatham presented a Bill to the Lords, the purpose of which was to reverse the adjudications of the House of Commons, by which Wilkes had been incapacitated from sitting as member for Middlesex. The Bill may be found in the Parliamentary History, vol. xvi, p. 955. It was opposed by Lord Denbigh, Lord Mansfield, and others, and a second reading was refused by 89 to 43.

The following protest was inserted.

Because the foundations for this Bill being so fully laid, in the reasons contained in two protests entered upon the Journals of this House on the second day of February last, we think it indispensably necessary to protest against the rejection of the same, to the intent that it may be delivered down to posterity, that this great constitutional and effectual method of remedying an unexampled grievance, hath not been left unattempted by us; and that to our own times, we may stand as men determined to persevere in renewing, on every occasion, our utmost endeavours to obtain that redress for the violated rights of the subject, and for the injured electors of Great Britain, which, in the present moment, an overruling fatality hath prevented from taking effect; thereby refusing reparation and comfort to an oppressed and afflicted people.

Charles Pratt, Lord Camden.
 William Pitt, Earl of Chatham.
 Charles Bennet, Earl of Tankerville.
 Edmund Boyle, Lord Boyle (Earl of Cork and Orrery).
 Charles Lennox, Duke of Richmond.
 William Petty, Lord Wycombe (Earl of Shelburne).
 John Manners, Duke of Rutland.
 George Neville, Lord Abergavenny.
 Henry Howard, Earl of Suffolk and Berkshire.
 George William Coventry, Earl of Coventry.
 William George Cavendish Bentinck, Duke of Portland.
 Francis Hastings, Earl of Huntingdon.
 Richard Grosvenor, Lord Grosvenor.
 William Bouverie, Earl of Radnor.
 George Montagu, Duke of Manchester.
 John Ewer, Bishop of Bangor.
 Thomas King, Lord King.
 John Hobart, Earl of Buckinghamshire.
 Other Lewis Windsor, Earl of Plymouth.
 Philip Stanhope, Earl Stanhope.
 Andrew Archer, Lord Archer.
 Richard Lumley, Earl of Scarborough.
 Washington Shirley, Earl Ferrers.
 William Ponsonby, Lord Ponsonby (Earl of Bessborough).
 Charles Watson Wentworth, Marquis of Rockingham.
 Matthew Fortescue, Lord Fortescue.
 William Wentworth Fitzwilliam, Earl Fitzwilliam.
 Hugh Percy, Duke of Northumberland.
 Richard Grenville, Earl Temple.
 George Lyttelton, Lord Lyttelton.
 Harry Paulet, Duke of Bolton.
 Willoughby Bertie, Earl of Abingdon.
 George Byng, Viscount Torrington.

CCCLII.

DECEMBER 10, 1770.

The Duke of Manchester rose to make a motion 'to desire his Majesty would be pleased to send a proper force to Gibraltar and the islands of Minorca and Jamaica, for their proper and sufficient defence at this time.' In the course of his speech he commented on the defencelessness of Gibraltar, when he was interrupted by Earl Gower, who moved that the standing order (No. 112) be read, excluding strangers, on the plea that emissaries of Spain might be present. He also commented on the fact that persons were taking notes. The Duke of Richmond defended the Duke of Manchester, and charged Earl Gower with irregularity. Instantly a violent clamour arose which drowned all speech. Lord Chatham tried to speak, but could not be heard. On this, after a fruitless remonstrance,

Lord Chatham left the House, and eighteen other Lords followed his example. After they were gone, the House became even more riotous, and expelled certain members of the Commons who were bringing up a Bill.—See Stanhope, chap. xlix.

The following protest was entered.

Because a Peer, being in the course of a most spirited, but proper and decent speech, introductory to a motion of importance to the public safety, which he declared it his intention to make, was, under pretence of speaking to order, interrupted in a manner equally insidious and disorderly.

When the Peer was thus improperly and groundlessly interrupted, and the standing order, No. 112, relative to the clearing the House, read, another Peer getting up to speak to order upon this astonishing interruption, could not obtain a hearing.

The irregular, clamorous, and indecent behaviour of several Lords, who called out incessantly, 'Clear the House! clear the House!' rendered all argument, and all representation upon the subject, utterly impracticable.

This indecent, and hitherto unprecedented uproar was continued even when the noble Lord on the woolsack stood up with his hat off, to explain order. The same tumult, which at first interrupted the Lord in his speech, and did not permit the Lord who spoke to order to be heard, prevented also any information from the Woolsack.

In this unexpected tumult, in which every idea of parliamentary dignity, the right of free debate, all pretence to reason or argument, were lost and annihilated; despairing of being able to hear, or to be heard, we found ourselves at length obliged to leave the House. And we cannot, without the utmost concern, reflect upon the method in which the House was cleared; thinking the personal interference of the Lords, and their going to the Bar to require the members of the other House to withdraw, to be equally derogatory from the dignity of the Lords, and disrespectful to the House of Commons.

We must consider this proceeding (too manifestly premeditated and prepared) to have been for no other purpose than to preclude enquiry on the part of the Lords; and, under colour of concealing secrets of State, to hide from the public eye the unjustifiable and criminal neglects of the Ministry, in not making sufficient and timely provision for the national honour and security.

We therefore do now most solemnly protest against the whole of this irregular conduct, as tending to suppress the sober and dispassionate deliberation which ought to guide the proceedings of this House, and to substitute clamour and violence in the place of reason and argument.

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 Charles Lennox, Duke of **Richmond**.
 William Cavendish, Duke of **Devonshire**.
 Charles Watson Wentworth, Marquis of **Rockingham**.
 William Pitt, Earl of **Chatham**.
 Hugh Percy, Duke of **Northumberland**.
 Francis Hastings, Earl of **Huntingdon**.
 William Petty, Lord **Wycombe** (Earl of Shelburne).
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 George Neville, Lord **Abergavenny**.
 William George Cavendish Bentinck, Duke of **Portland**.
 George Byng, Viscount **Torrington**.
 George Montagu, Duke of **Manchester**.
 Joseph Damer, Lord **Milton**.
 Harry Paulet, Duke of **Bolton**.
 Willoughby Bertie, Earl of **Abingdon**.

CCCLIII, CCCLIV.

FEBRUARY 14, 1771.

The circumstances which led to the claim of the Falkland Islands on behalf of the British Crown are given in Lord Stanhope's History, chap. xlix. It appears that the circumstances were menacing, and that alarms were felt as to a possible war with Spain, and this at a time when there was the greatest discontent in the American colonies. The risks of a rupture were avoided ultimately by the concessions of Spain. The documents and a meagre account of the debates on the subject are to be found in Parliamentary History, vol. xvi, p. 1336. The immediate object of the subjoined protests was the refusal of the Lords, by 107 to 38, to leave out certain clauses in an address to the Crown.

1st, Because it is highly unsuitable to the wisdom and gravity of this House, and to the respect which we owe to his Majesty and ourselves, to carry up to the Throne an address, approving the acceptance of an imperfect instrument, which has neither been previously authorised by any special full powers produced by the Spanish Minister, nor been as yet ratified by the King of Spain. If the ratification on the part of Spain should be refused, the address of this House will appear no better than an act of precipitate adulation to Ministers; which will justly expose the Peer-

age of the Kingdom to the indignation of their country, and to the derision of all Europe.

2ndly, Because it is a direct insult on the feelings and understanding of the people of Great Britain to approve this declaration and acceptance, as a means of securing our own and the general tranquillity, whilst the greatest preparations for war are making, both by sea and land, and whilst the practice of pressing is continued as in times of the most urgent necessity, to the extreme inconvenience of trade and commerce; and with the greatest hardships to one of the most meritorious and useful orders of his Majesty's subjects.

3rdly, Because the refusing to put questions to the judges upon points of law, very essentially affecting this great question, and the refusing to address his Majesty to give orders for laying before this House the instructions relating to Falkland's Islands, given to the Commanders of his Majesty's ships employed there, is depriving us of such lights as seemed highly proper for us on this occasion.

4thly, Because, from the declaration and correspondence laid before us, we are of opinion, that the ministers merit the censure of this House, rather than any degree of commendation, on account of several improper acts, and equally improper omissions, from the beginning to the close of this transaction.

For it is asserted by the Spanish Minister, and stands uncontradicted by ours, that several discussions had passed between the ministers of the two Courts, upon the subject of Falkland's Islands, which might give the British ministers reason to foresee the attack upon that settlement that was afterwards made by the forces of Spain. Captain Hunt also arriving from thence so early as the 3rd of June last, did advertise the ministers of repeated warnings and menaces made by Spanish governors and commanders of ships of war; yet so obstinately negligent and supine were his Majesty's ministers, and so far from the vigilance and activity required by the trust and duty of their offices, that they did not even so much as make a single representation to the Court of Madrid, which, if they had done, the injury itself might have been prevented, or at least so speedily repaired, as to render unnecessary the enormous expenses to which this nation has been compelled, by waiting until the blow had been actually struck, and the news of so signal an

insult to the Crown of Great Britain had arrived in Europe. To this wilful, and therefore culpable, neglect of representation to the Court of Spain, was added another neglect; a neglect of such timely preparation for putting this nation in such a state of defence, as the menacing appearances on the part of Spain, and the critical condition of Europe required. These preparations, had they been undertaken early, would have been executed with more effect, and less expense; would have been far less distressing to our trade, and to our seamen; would have authorised us in the beginning to have demanded, and would, in all probability, have induced Spain to consent to, an immediate, perfect, and equitable settlement of all the points in discussion between the two Crowns. But all preparation having been neglected, the national safety was left depending, rather upon accidental alterations in the internal circumstances of our neighbours, than in the proper and natural strength of the Kingdom; and this negligence was highly aggravated by the refusal of Administration, to consent to an address proposed by a noble Lord, in this House, last Session, for a moderate and gradual augmentation of our naval forces.

5thly, Because the negotiation, entered into much too late, was, from the commencement, conducted upon principles as disadvantageous to the wisdom of our public Councils, as it was finally concluded in a manner disgraceful to the honour of the Crown of Great Britain; for it appears that the Court of Madrid did disavow the act of hostility, as proceeding from particular instructions, but justified it under her general instructions to her governors; under the oath by them taken, and under the established laws of America. This general order was never disavowed nor explained; nor was any disavowal or explanation thereof ever demanded by our ministers; and we apprehend that this justification of an act of violence under general orders, established laws, and oaths of office, to be far more dangerous and injurious to this Kingdom, than the particular enterprise which has been disavowed, as it evidently supposes, that the governors of the Spanish American Provinces, are not only authorised, but required without any particular instructions, to raise great forces by sea and land, and to invade his Majesty's possessions in that part of the world, in the midst of profound peace.

6thly, Because this power, so unprecedented and alarming, under which the Spanish Governor was justified by his Court, rendered it

the duty of our ministers to insist upon some censure or punishment upon that Governor, in order to demonstrate the sincerity of the Court of Madrid, and of her desire to preserve peace, by putting at least some check upon those exorbitant powers asserted by the Court of Spain to be given to her governors. But although our ministers were authorised not only by the acknowledged principles of the Law of Nations to call for such censure or punishment, but also by the express provision of the seventeenth article of the Treaty of Utrecht, yet they have thought fit to observe a profound silence on this necessary article of public reparation. If it were thought that any circumstances appeared in the particular case of the Governor to make an abatement or pardon of the punishment advisable, that abatement or pardon ought to have been the effect of his Majesty's clemency, and not an impunity to him, arising from the ignorance of our ministers in the first principles of public law, or their negligence or pusillanimity in asserting them.

7thly, Because nothing has been had or demanded as reparation, in damage for the enormous expense and other inconveniences arising from the confessed and unprovoked violence of the Spanish forces in the enterprise against Falkland's Islands, and the long subsequent delay of justice; it was not necessary to this demand, that it should be made in any improper or offensive language, but in that style of accommodation which has ever been used by able negotiators.

8thly, Because an unparalleled and most audacious insult has been offered to the honour of the British flag, by the detention of a ship of war of his Majesty's, for twenty days after the surrender of Port Egmont, and by the indignity of forcibly taking away her rudder; this act could not be supported upon any idea of being necessary to the reduction of the fort, nor was any such necessity pretended. No reparation in honour has been demanded for this wanton insult, by which his Majesty's reign is rendered the unhappy era in which the honour of the British flag has suffered the first stain with entire impunity.

9thly, Because the Spanish Declaration, which our Ministers have advised his Majesty to accept, does in general words imply his Majesty's disavowal of some acts on his part, tending to disturb the good correspondence of the two Courts; when it is notorious, that no act of violence whatsoever had been committed on the part

of Great Britain. By this disavowal of some implied aggression in the very Declaration, pretended to be made for reparation of the injured dignity of Great Britain, his Majesty is made to admit a supposition contrary to truth, and injurious to the justice and honour of his Crown.

10thly, Because in the said Declaration, the restitution is confined to Port Egmont, when Spain herself originally offered to cede Falkland's Island. It is known that she made her forcible attack on pretence of title to the whole; and the restitution ought, therefore, not to have been confined to a part only, nor can any reason be assigned, why the restitution ought to have been made in narrower or more ambiguous words than the claims of Spain, on which her act of violence was grounded, and her offers of restitution originally made.

11thly, Because the Declaration, by which his Majesty is to obtain possession of Port Egmont, contains a reservation or condition of the question of a claim of prior right of sovereignty in the Catholic King to the whole of Falkland's Islands, being the first time such a claim has ever authentically appeared in any public instrument, jointly concluded on by the two Courts. No explanation of the principles of this claim has been required, although there is just reason to believe that these principles will equally extend to restrain the liberty, and confine the extent of British navigation. No counter claim has been made on the part of his Majesty to the right of sovereignty in any part of the said Island ceded to him; any assertion whatsoever of his Majesty's right of sovereignty, has been studiously avoided, from the beginning to the accomplishment of this unhappy transaction; which, after the expense of millions, settles no contest, asserts no right, exacts no reparation, affords no security, but stands as a monument of reproach to the wisdom of the national councils, of dishonour to the essential dignity of his Majesty's Crown, and of disgrace to the hitherto untainted honour of the British flag.

After having given these reasons, founded on the facts which appeared from the papers, we think it necessary here to disclaim an invidious and injurious imputation, substituted in the place of fair argument, 'that they who will not approve of this convention, are for precipitating their country into the calamities of war.' We are as far from the design, and we trust much farther from the act of

kindling the flame of war, than those who have advised his Majesty to accept of the Declaration of the Spanish Ambassador.

We have never entertained the least thought of invalidating this public act; but if Ministers may not be censured, or even punished, for treaties which, though valid, are injurious to the national interest and honour, without a supposition of the breach of public faith in this House, that should censure or punish, or of a breach of the laws of humanity, in those who propose such censure or punishment, the use of the Peers, as a control on ministers, and as the best, as well as highest, Council of the Crown, will be rendered of no avail. We have no doubt but a declaration more adequate to our just pretensions, and to the dignity of the Crown, might have been obtained without effusion of blood; not only from the favourable circumstances of the conjuncture, but because our just demands were no more than any sovereign power, who had injured another through inadvertence or mistake, ought, even from regard to its own honour, to have granted: and we are satisfied, that the obtaining such terms would have been the only sure means of establishing a lasting and honourable peace.

Charles Lennox, Duke of **Richmond**.

William Pitt, Earl of **Chatham**.

George Byng, Viscount **Torrington**,

Harry Paulet, Duke of **Bolton**.

William Petty, Lord **Wycombe** (Earl of Shelburne).

Joseph Damer, Lord **Milton**.

George Montagu, Duke of **Manchester**.

William Craven, Lord **Craven**.

George Neville, Lord **Abergavenny**.

Charles Bennet, Earl of **Tankerville**.

Edmund Boyle, Lord **Boyle** (Earl of Cork and Orrery).

William Cavendish, Duke of **Devonshire**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

John Talbot Touchet, Lord **Audley** (Earl of Castlehaven).

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

Thomas King, Lord **King**.

Richard Lumley, Earl of **Scarborough**.

Andrew Archer, Lord **Archer**.

Because, though the disavowal may be considered as humiliating to the Court of Spain, the declaration and acceptance, under the reservation of the question of prior right, do not, in my opinion, after the heavy expenses incurred, either convey a satisfaction adequate to the insult on the honour of Great Britain, or afford

any reasonable grounds to believe that peace, on terms of honour, can be lasting.

William Bouverie, Earl of Radnor.

CCCLV.

FEBRUARY 26, 1771.

Players were put under restraint by 3 James I, cap. 21, and were subjected to other restrictions by 12 Anne, Stat. ii. cap. 23. These persons were further controlled by 10 Geo. II, cap. 28 and 25 Geo. II, cap. 36, the Act being made perpetual by 28 Geo. II, cap. 19. The theatres of Drury Lane, Covent Garden, and the Haymarket are exempted from the provisions of these Acts. In the reign of George III, several towns were relieved from the operation of these laws by special Acts of Parliament, the first being Edinburgh. In 1771 one William Gibson applied to Parliament for an Act to enable the King to grant Letters Patent for a theatre in Liverpool, and in consequence a Bill was brought into the Commons and passed there. It was read a first time on the 14th of February, and on the 20th a petition was presented from the municipality of the town in favour of the Bill. It was read a second time on the 26th of February, but was opposed on the motion of going into committee. There is no record of the debate on the occasion, but the Bill was passed and received the royal assent on the 8th of March. It stands in the statute book as 11 Geo. III, cap. 16.

The following protest was entered.

Because the argument particularly endeavoured to be enforced by the supporters of the Bill, that established theatres in country towns conduce to the improvement of the morals of the inhabitants, and in commercial towns to the advantage of the trader and manufacturer, is raillery rather than reason, being false in fact, and notoriously contradicted by experience.

Because, at a time when the acknowledged characteristic of the age is love of pleasure and dissipation, the weakening a law founded on the soundest principles of good government—the necessity of preserving the morals of the individual for the happiness of the community, is, under these circumstances, peculiarly unwise, contrary to the truest maxims of policy, and highly unbecoming the dignity of legislature.

Because, when we have a Prince on the Throne, whose virtues, whilst they reflect a lustre on his Crown, might check the growing licentiousness of the times, a Bill which relaxes the restraints on the incentives to vice, and tends to corrupt the moral principles of his subjects, supported as it is by noble Lords in the highest offices

in government, must, in effect, counteract his Majesty's bright example, and lessen its influence on the minds of his people.

William Bouverie, Earl of **Radnor**.
Thomas King, Lord **King**.

CCCLVI.

MAY 1, 1771.

A proposal was made in the Session of 1771 to embank a portion of the Thames at Durham Yard. A committee of the Commons was appointed to report on it, evidence collected, and a report brought in. In consequence a Bill was ordered to be prepared. The City of London petitioned against this Bill, and produced a charter of Henry VII, granting the soil and bed of the Thames from Staines to the Medway to them. This claim was resisted by counsel on the other side, who insisted that the rights of the City were of a very limited kind. It was also alleged that by the Bill a private individual gained an estate worth £40,000, 'for which he paid no kind of acknowledgment to public.' The claims of the City were overruled, and it was even said that the managers of the Bill had made their measure a public Bill, in order to prevent its being referred to the Judges. The Bill however passed the Commons by large majorities, though in a thin House. It should be remembered that in this Session the House of Commons had their famous quarrel with Lord Mayor Crosby, Alderman Oliver, and Alderman Wilkes, on the attachment of certain printers who had published the debates. The Lord Mayor and Oliver were committed to the Tower from March till the 8th of May, when Parliament was prorogued.

On the 1st of May, the Durham Yard embankment Bill passed the Lords. It received the royal assent on the 8th of May, 11 Geo. III, cap. 34. The following protest was inserted on the third reading.

1st, Because we are convinced, by the evidence, that the embankment proposed will not¹ be a means of improving the navigation of the river, which is the ostensible object of the Bill. On the contrary, the idea suggested by the preamble, of its increasing the rapidity of the stream, so as to remove the supposed obstructions to the navigation, appears to us equally unsupported, and indeed contradicted by the witnesses on both sides; and if it were admitted, would afford no argument in favour of a partial embankment; since the said bank, if removed from its present station, and not carried entirely off, must settle in some other part of the river, not improbably in some part where it would be much more prejudicial to the navigation. And although it has been confidently

¹ 'Not' is omitted in the original, by what is clearly a clerical error.

asserted, on the part of the undertakers, that it will be in other respects advantageous to the navigation, the petitioners against the Bill have, with equal confidence, denied it, and suggested many inconveniences which they conceive it will occasion. These allegations we find it not more difficult to reconcile, than to decide between them with any kind of certainty on such evidence as we have heard. It is, however, to be observed, that the proposition comes from persons holding no office which calls upon them to advert to the state of the navigation, nor following any trades which interest them in its well or ill being; and that it is opposed by the concurrent Petitions of the Company of Watermen, the Corn-Lightermen, and the Coal-Lightermen, whom we understand to be the principal navigators of this part of the river, and of the City of London, whose interests are obviously inseparable from those of the general navigation of the river, who have been immemorially intrusted with the conservancy of it, and of whose conduct in the exercise of that office we have heard no complaint. Under these circumstances we cannot but think it safer to leave the river in the condition in which it has hitherto been found sufficient for all the purposes of navigation, than to hazard an experiment to make it better, that may possibly be productive of mischiefs in their nature irremediable, for which at least this Bill provides no remedy.

2ndly, All the arguments we have heard in favour of an embankment, whatever weight they may deserve, go to prove the utility of a general not a partial embankment; and if the Legislature should at any time see reason to adopt that idea, this Bill, instead of assisting as has been supposed, cannot fail to obstruct the execution of it. 1st, As it precludes the choice of such a plan, as upon a full and proper consideration of the whole subject, may be found most eligible, and admits only of such a one as will coincide with the project to be established by this Bill, which on the face of the Bill itself appears to have been framed with a view to, and as part of, the adjacent buildings; the Bill reserving no power to require or direct any future alterations, however necessary. 2ndly, As it is not to be doubted that the precedent of this Bill will produce other applications to Parliament (which cannot be consistently refused) for authority to embank such other parts of the river as the parties applying may find their account in embanking. After which, not

only the difficulty of completing the work, so as to give any sort of consistency to so many unconnected schemes, and thereby produce the public advantages, which we are told are to result from the whole, but also the expense of embanking those parts, from whence no private emolument can arise, will be left a burthen on the public. Whereas, if this Bill were rejected, the whole work might at any time be executed, as all public works ought to be, upon one regular well digested plan, under parliamentary inspection and control; and that without a shilling charge to the public, the emoluments arising from such a work affording a fund amply sufficient to defray the whole expense attending it.

3rdly, We have hitherto treated this Bill, as if it was what the uninformed reader would be led to imagine it—a measure taking its rise from the public spirit of certain disinterested persons, who desired nothing but the authority of Parliament to execute a project of great public utility, at their own private expense: but, after hearing the proofs and uncontradicted allegations at the Bar, it would be ridiculous to consider the idea of public utility as any thing more than a pretext for the private advantage of individuals, who having first laid their hands on what confessedly does not belong to them, having, by their own authority, excluded the public from the use they have hitherto enjoyed of this part of the river, and having, in consequence, subjected themselves to public prosecutions now actually depending, come to Parliament to sanctify this injustice, and protect them against the consequences of this violence; and not content with impunity, are to be rewarded with a gift of the absolute property of what they have thus possessed themselves, which, in their hands, and when applied to the uses they have destined it, will be of immense value; and this without even the pretence of a title in themselves, or any better foundation than the consent which his Majesty, through the ill advice of his Ministers, has been induced to give, on a supposition of a title to the soil still remaining in the Crown, although that title has been disputed, and the property claimed, under ancient grants from former Kings, by the City of London, and by the Church of Westminster; in support of whose claims, particularly the former, much evidence was gone into at the Bar, far more than was sufficient to the only purpose for which it is competent to the jurisdiction of either House of Parliament, acting legislatively, to discuss men's

titles, that of shewing that the claim is not a mere pretence to obstruct the Bill.

4thly, Whether we consider the Bill as a public Bill, which it affects to be, or as a private Bill, which it really is, we conceive it to be equally destitute of foundation in precedent or principle. It is undoubtedly true, that the Parliament frequently does, and ought to make free with property, on the terms of compensation, whenever it is wanted for public purposes ; but the public claim extends no further than the public occasion requires : if, therefore, there were any public reason for this embankment, and it were fit to entrust the execution of the work to private undertakers, we conceive it would be but just, that the emolument arising from thence, should be given to the proprietors of the soil, if they chose to undertake it, in preference to any other who might apply for it ; and, by parity of reason, if the property is doubtful, to those who have at least a colourable claim, in preference to those who have no claim at all. With regard to private Bills, we know of no instance in which Parliament ever did interpose ; and we conceive it will be an Act of manifest injustice, whenever Parliament shall interpose to accommodate one man with the property of another, against his will, or even without his express consent.

Such is the attention of Parliament to the preservation and protection of unknown and unclaimed rights, that no Bill for the regulation of private property is ever suffered to pass, though unopposed, without a general saving of all rights, except those of the parties petitioning for, or consenting to the Bill ; and when the regulation desired, is opposed under a claim of title, if the evidence produced by the party opposing suffices to raise a doubt to whom the property belongs, the Bill proceeds no farther, but the parties are left to settle the doubt, and get it decided as they may in the Courts below. We cannot, therefore, forbear to express our surprise and concern, that this Bill, sent up from the Commons without any such saving, should have passed this House without alteration, after so much evidence as was offered in support of the claims of the petitioners ; and after the Parliament had respectively declared their readiness to try those claims with the Crown in the due course of law, both which claims the Bill itself recognizes as proper to be tried, and one of which, although they have been both treated as chimerical, the undertakers themselves were so far from thinking so, that they appeared in

evidence to have been desirous of purchasing that of the City of London, at the price of an annual quit-rent of a farthing per foot.

5thly, The saving clauses inserted in this Bill, if they can be so termed, serve only to shew, that in the idea of those who framed them, this was a Bill in which saving clauses were necessary, and that they were nevertheless determined so to frame them, as that they should be of no effect; for not to mention the obvious difference, to the disadvantage of the petitioners, between this provision and the general saving clause, which usually is, and always ought to be inserted in Bills where a saving clause is necessary, to deter the petitioners the more effectually from attempting to get through the embarrassments, with which their right of suing is involved, the object of their suit is by the terms of the provision placed for ever out of their reach; and whether they succeed or miscarry, the property they contend for is to become at all events the property of the undertakers, and a verdict establishing the petitioners' titles is to be of no other use, than to give them a claim to such a compensation as a jury may think fit to estimate, who will not fail to be told, that they are to compute the soil as covered with water, and subject to the public right of navigating over it.

In order to give some colour to this extraordinary and unexampled provision, each of these clauses begins with asserting as a fact, that the petitioners had insisted on a compensation from the undertakers for the liberty of embanking, an assertion which the counsel for the petitioners flatly contradicted; of the truth of which, with regard to either of the petitioners, no evidence was offered on the part of the Undertakers, and of the falsehood of which, with regard to the City of London, there can be no doubt, since, instead of claiming a compensation, it was not denied that it had been offered them, and they refused it. These clauses, therefore, we cannot but consider as a mockery of all the forms of parliamentary proceedings, and with regard to the individuals whom they affect, as adding insult to oppression; and if we had no other objection to the Bill, we should think ourselves bound by the duty we owe to the petitioners, and to ourselves as members of this House, to protest against a proceeding of so alarming and dangerous an example to the property of the whole Kingdom, naturally tending, as we conceive, to increase and justify the general want of confidence in the present Parliament.

William Petty, Lord Wycombe (Earl of Shelburne).

Thomas King, Lord King.

Charles Bennet, Earl of Tankerville.

CCCLVII, CCCLVIII.

MARCH 3, 1772.

In 1771 the King's brother, Henry, Duke of Cumberland, married Mrs. Horton, sister of Colonel Luttrell, who had been seated in place of Wilkes for Middlesex, daughter of Lord Ingham, an Irish Peer, and widow of a Derbyshire gentleman. The marriage took place at Calais, and the King forbade the Duke of Cumberland and his wife from coming to his Court. Soon afterwards another brother of the King, Henry, Duke of Gloucester, avowed his marriage, contracted some years previously (in 1766) with Maria, Dowager Countess of Waldegrave, an illegitimate daughter of Sir Edward Walpole. In consequence of these events a message was sent to both Houses on the 20th of February, desiring that some legislative act should prevent any marriages of the descendants of George II, without the King's license and approbation. Next day the Royal Marriage Bill was introduced in the Lords by Lord Rochford. A copy of the Bill may be found in Parliamentary History, vol. xvii, p. 384. After a question had been asked the Judges on the 26th of February, the Bill was put into Committee on the 3rd of March. The Bill was opposed by Lord Rockingham, who stated that so far 'from the marriage of a subject being a misalliance to the royal family, no subject would suffer his son to marry into the royal family, as the portion of such a marriage would be slavery.' He therefore moved to limit the restraint to the children and grandchildren of the reigning King, or being presumptive heir to the Crown. This amendment was rejected by 88 to 34, and the Bill was read a third time and passed on the 3rd of March by 90 to 26. It passed the Commons with some amendments on the 24th of March by 168 to 115. Fox quitted the Ministry in consequence. The Act is 12 George III, cap. 11. It received the royal assent on the 1st of April.

The following protests are inserted.

1st, Because we think the declaratory principle in the preamble of the Bill, to be without foundation in law (in the extent there stated), to be unnecessary for the avowed purposes of the Bill, and likely to be attended with very dangerous consequences, as that preamble does assert, 'That we are sensible that marriages in the royal family are of the highest importance to the State, and that therefore the Kings of this realm have ever been entrusted with the care and approbation thereof.'

The maxim here laid down, 'That because marriages of the royal family are of the highest importance to the State, they are therefore entrusted to the Kings of this realm,' is founded on a doctrine

absurd and unconstitutional, but which hereafter will have the force of a Parliamentary declaration of law, the immediate tendency of which is to create as many prerogatives in the Crown as there are matters of importance in the State, and indeed to extend them in a manner as vague and exceptionable as had ever been done in the worst and most despotic periods in the history of this nation ; and we apprehend that some future, and even more dangerous use may be made of this preamble, as it is much more extensive than is necessary for any purpose avowed in the Bill.

2ndly, Because this declaratory preamble seems to justify the words which his Majesty has been advised (we think very improperly) to use in his message to his Parliament, whereby a prerogative is assumed in an extent, for which nine of his judges, in their unanimous opinion, delivered to this House, do not find any authority.

3rdly, Because the term royal family being general, and not qualified by 'the exception of the issue of princesses married into foreign families,' seems to carry very idly (as we apprehend) the royal prerogative beyond the jurisdiction of the Crown of Great Britain ; can therefore, as applied in the preamble, be warranted by no law, and is indeed contrary to common sense.

4thly, Because if this Parliamentary declaration of law can operate in any degree as a retrospect (an operation against which we have no security by anything contained in the Bill) it is pernicious and unjust ; if it can have no such retrospect (as was asserted in argument by the friends of the Bill) it is then at best frivolous and unnecessary.

5thly, Because the enacting part of the Bill has an inconvenient and impolitic extent, namely, to all descendants of George II. In course of time that description may become very general, and comprehend a great number of people, and we conceive it would be an intolerable grievance that the marriages of so many subjects, perhaps dispersed among the various ranks of civil life, should be subject to the restrictions of this Act, especially as it has been asserted in argument, and endeavoured to be maintained by the authority of the grand opinion given by the Judges in the year 1717, that the care and approbation of the marriage includes the education and custody of the person. We fear that this extensive power would come in time to make many of the first families in the

Kingdom totally dependent on the Crown, and we therefore lament that the endeavours so earnestly used in the Committee, in some degree to limit the generality of that description, were not suffered to take effect.

6thly, Because as the line is too large, with regard to the description of the royal family, so we think that the time of non-age for that family is also improperly extended. We conceive that the age of twenty-one years is that limit, which the laws of this country, and the spirit of the constitution have with great wisdom given to minority. It seems indecent to the royal family to suppose they will not be arrived at the age of discretion as soon as the lowest subject of the realm; and we cannot conceive but they may be as capable of choosing a wife at the age of twenty-one, as of being entrusted with the regency of the Kingdom, of which, by law, they are at that age capable. We also conceive that the deferring their age of majority as to marriage till twenty-six, is impolitic and dangerous, as it may tend to drive them into a disorderly course of life, which ought the more to be guarded against in men of high rank, as the influence of their example is the most forcible and extensive.

7thly, Because the power given by this Bill to a Prince to marry after the age of twenty-six, having first entered in the books of the Privy Council his intention so to do, for twelve calendar months, is totally defeated by the subsequent proviso, 'Unless both Houses of Parliament shall, before the expiration of the said twelve months, expressly declare their disapprobation of such intended marriage.'

We think this proviso lays great difficulties on future Parliaments, as their silence in such a case must express a condemnation of the King's refusal; and their concurrence with such refusal, may prove a perpetual prohibition from marriage, to the person concerned.

We conceive the right of conferring a discretionary power of prohibiting all marriages (whether vested in the Crown alone, as intended by the message, or in the manner now enacted by the Bill) to be above the reach of any legislature, as contrary to the original inherent rights of human nature, which, as they are not derived from, or held under civil laws, by no civil laws whatsoever can be taken away. We freely allow, that the legislature has a power of

prescribing rules to marriage, as well as to every other species of contract, but there is an essential and eternal difference between regulating the mode in which a right may be enjoyed, and establishing a principle which may tend entirely to annihilate that right. To disable a man during his whole life from contracting marriage, or what is tantamount, to make his power of contracting such marriage dependent neither on his own choice, nor upon any fixed rule of law, but on the arbitrary will of any man, or set of men, is exceeding the power permitted by the Divine Providence to human legislators. It is directly against the earliest command given by God to mankind, contrary to the right of domestic society and comfort, and to the desire of lawful posterity, the first and best of the instincts planted in us by the Author of our nature, and utterly incompatible with all religion, natural and revealed, and therefore a mere act of power, having neither the nature nor obligation of law.

8thly, Because we conceive this Bill to be pregnant with civil discord and confusion; it has a natural tendency to produce a disputed title to the Crown. If those who may be affected by it are in power, they will easily procure a repeal of this Act, and the confirmation of a marriage made contrary to it; and if they are not, it will at least be the source of the most dangerous party that can exist in any country, a party attached to a pretender to the Crown, whose claim, he may assert, has been set aside by no other authority than that of an Act, to which the legislature was not competent, as being contrary to the common rights of mankind. Such a claim, supported as it may be, by peculiar hardship in the case, must, as we conceive, at no very remote period, create great mischief and confusion.

Lastly, Because this Bill, which resorts to such harsh and unusual methods, at the same time provides for its own purpose very uncertainly and very imperfectly, for it secures no remedy against the improper marriages of princesses, married into foreign families, and those of their issue, which may full as materially affect the interest of this nation, as the marriages of princes residing in the dominions of Great Britain. It provides no remedy at any age, against the improvident marriage of the King reigning, the marriage, of all others, the most important to the public. It provides nothing against the indiscreet marriage of a prince of the

blood, being regent at the age of twenty-one, nor furnishes any remedy against his permitting such marriages to others of the blood royal, the regal power fully vesting in him as to this purpose, and without the assistance of his council. We cannot therefore, on the whole, avoid expressing our strong disapprobation of an Act, shaking so many of the foundations of law, religion, and public security, for ends wholly disproportioned to such extraordinary efforts, and in favour of regulations so ill calculated to answer the purposes for which it is pretended they are made. And we make this protest, that it may stand recorded to that posterity which may suffer from the mischievous consequences of this Act, that we have no part in the confusions and calamities brought upon them, by rendering uncertain the succession of the Crown.

Charles Lennox, Duke of **Richmond**.
William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
William Cavendish, Duke of **Devonshire**.
George Neville, Lord **Abergavenny**.
George Harry Grey, Earl of **Stamford**.
George Keppel, Earl of **Albemarle**.
Joseph Damer, Lord **Milton**.
William Henry Cavendish Bentinck, Duke of **Portland**.
John Frederic Sackville, Duke of **Dorset**.
William Craven, Lord **Craven**.
Willoughby Bertie, Earl of **Abingdon**.
George Byng, Viscount **Torrington**.
John Ewer, Bishop of **Bangor**.
Charles Watson Wentworth, Marquis of **Rockingham**.

Because the liberty of marriage is a natural right inherent in mankind.

Because this right is confirmed and enforced by the Holy Scriptures, which declare marriage to be of divine institution, and deny to none the benefit of that institution.

Because the law of nature and divine institutions are not reversible by the power of human legislatures.

Because there is a total difference between regulating the mode of exercising the right derived from the law of nature, and assuming or granting a discretionary power of taking it quite away.

Because though we think it expedient and agreeable to the dictates of reason, that minors should not marry without the consent of their parents or guardians, and that such consent should be necessary to render their marriage good and valid, as it likewise is

in the exercise of all their other rights during the term of their nonage, it can no more be inferred from thence, that we acknowledge a right to continue such restraint throughout their whole lives, than that we acknowledge a right to keep men or women in a state of endless nonage, which, unless in the case of idiots or incurable lunatics, would be absurd, unjust, and a manifest violation of the law of nature.

Because if a perpetual restraint upon marriage, or power given to restrain it without limitation of time or age, be contrary to the natural and divine laws, as we apprehend it to be, a law authorising such restraint, or conferring such a power, must be null and void in itself.

Because in any case, where the right of succeeding to the Crown of these realms may come to depend on the force or invalidity of the power given by this Bill, an appeal made against it would probably bring upon the royal family and the nation all the miseries and horrors of civil war.

Because though the placing such a power in the King, with the interposition of both Houses of Parliament, is a better security against the abuse of it, than if it had been entrusted to the King alone, yet it may be so used, in corrupt or violent times, as to be made, in some cases, a perpetual negative on the freedom of marriage.

Because if the power be grievous, and contrary to the inherent rights of mankind, the grievance is increased by the infinite number of persons over whom, in the course of time, it is likely to extend.

Because we are convinced, that all the good purposes and objects of the Bill, which we have greatly at heart, might have been answered without giving that perpetuity of restraint over the freedom of marriage, which we think ourselves bound in conscience to oppose.

William Bouverie, Earl of Radnor.

Richard Grenville, Earl Temple.

John Bligh, Lord Clifton (Earl of Darnley).

George Lyttelton, Lord Lyttelton.

Willoughby Bertie, Earl of Abingdon.

William Craven, Lord Craven.

And, because the Bill is essentially wanting to its avowed purpose,
VOL. II. K

in having provided no guard against the greater evil, the improper marriages of the Princes on the throne.

William Bouverie, Earl of Radnor.

CCCLIX.

DECEMBER 23, 1772.

The affairs of the East India Company had fallen into great disorder. Hastings had been sent out in 1771, but had not yet retrieved its finances. It became necessary for Parliament to take the circumstances into consideration, and in consequence a Bill was brought in, which eventually became a law, 13 Geo. III, cap. 9, for restraining the East India Company for a limited time from making any appointment of Commissioners for superintending and regulating the Company's affairs at their Presidencies in the East Indies. This was followed subsequently and in the same Session of Parliament by the Regulation Act, 13 Geo. III, cap. 63. The Bill for restraining the appointment of supervisors was limited to six months. It was argued against by Impey and Adair, counsel for the Company, defended by Clive, and resisted by Burke, in the Commons, and carried by 153 to 28. In the Lords, the same counsel was heard against the Bill, but the third reading was carried by 26 to 6.—See Mill's India, book iv, chap. 9.

The following protest was entered.

1st, Because the Bill takes away from a great body corporate, and from several free subjects of this realm, the exercise of a legal franchise, without any legal cause of forfeiture assigned. The persons appointing the commission had by law a right to elect; and the persons chosen had by law a capacity of being elected. The choice was regularly made according to the constitution of the Company. It was confirmed on ballot. The supervisors had a full right vested in them, agreeable to the powers and conditions of their appointment. No abuse has been suggested, no delinquency has been charged. These legal rights and capacities are therefore taken away by a mere act of arbitrary power, the precedent of which leaves no sort of security to the subject for his liberties; since his exercising them in the strictest conformity to all the rules of law, as well as to those of general equity and moral conduct, is not sufficient to prevent Parliament from interposing its sovereign powers to divest him of these rights, by means of which insecurity the honourable distinction between the British and other forms of government is in a great measure lost; a misfortune which we are

sorry to find greatly growing upon us by those temporary occasional and partial acts of Parliament, which, without any consideration of their conformity to the general principles of our law and constitution, are adopted rashly and hastily on every petty occasion.

2ndly, Because this Bill appears to us a manifest violation of the public faith. The charter of the East India Company has been granted by the Crown, authorised by Act of Parliament, and purchased for valuable consideration of money lent and paid. That charter empowers the Company to manage its own affairs, according to its own discretion, by persons of its own appointment. This Bill suspends for a time the exercise of this privilege; and by grounding the suspension upon the actual interference of Parliament in the affairs of the Company, establishes a principle which may be used for perpetuating indefinitely the restraint, because Parliament may keep their affairs, by frequent revisions, almost perpetually under consideration. The same principle is also applicable to the suspension or deprivation of any other privilege which they hold under their charter. We admit that it is difficult to fix any legal limit to the extent of legislative power: but we apprehend that Parliament is as much bound, as any individual, to the observance of its own compacts; else it is impossible to understand what public faith means, or how public credit can subsist.

3rdly, Because it appears, by evidence at the Bar of this House upon oath, that the Company had received assurances from the chairman and deputy chairman that the appointment of a commission for superintending and regulating their affairs would be approved by Administration. This is the only channel of communication with ministers that the Company can have; and it is peculiarly hard that, driven from all confidence in public faith and the laws of their country, they should find no security for their charter privileges against the attempts made by those very ministers under whose sanction they had all possible reason to believe they had been acting.

4thly, Because it appears to us that the Company was not only authorised by law, but bound in duty, to appoint a Commission for regulating their affairs and correcting abuses; and it would, in our opinion, furnish a more plausible ground for attacking the lawful powers of the Company, if it were charged that they had not

exercised them for the redress of the said abuses, than that they had appointed a commission for such a necessary purpose. It might have been alleged by the adversaries of the Company, that non-user, and neglect of applying legal powers for the ends for which such powers were given, were matters of delinquency in that corporation ; and might have subjected them to process in the courts below, or to an adverse proceeding in Parliament. It is a government, as we conceive, full of deceit as well as violence, where men are to be punished if they decline, or to be restrained if they endeavour to exercise, their lawful powers.

5thly, Because we have reason to believe, from public opinion and report, that great abuses still prevail and increase in the Company's settlements abroad, which makes it highly expedient that the Commission restrained by this Bill for six months should have as little delay as possible. Six months delay in the Commission will, by the nature of the season, certainly protract its operation for a year, and, probably, for much longer ; by this means all abuses will gain ground, and their reformation will become more difficult. Nor can we allow that the speculation of more ample powers to be hereafter given by Parliament (but which are not as yet so much as proposed), can furnish an adequate reason for preventing the operation of such powers as legally exist at present. Besides, without suspending the Commission, any degree of authority thought expedient might have been superadded to the present powers given by the Company. We do therefore, in this solemn manner, exculpate ourselves, to the present time and to posterity, from having any share in the oppressions which may arise or be continued on the native inhabitants in the Company's possessions in India, from any part in the danger which may happen to their valuable possessions, from the waste or decay of the revenues, or in the loss or diminution of trade, which may so very probably arise from this wanton and arbitrary delay of a timely remedy. It must be a matter of astonishment to the public, who have for a long time earnestly and anxiously looked to the Company, or to Parliament, for redress of the grievances in India, to find at length that the latter is only employed in preventing the former from doing its duty ; that, instead of correcting the abuse, we oppose ourselves to the reformation ; that when it was expected that those who have wronged the Company should be brought to exemplary punishment, the suffering

Company itself is deprived of its rights; and instead of calling delinquents to account, the persons legally empowered to correct or restrain them are by Parliament suspended from their office. It was the more necessary for the Company to give the strictest attention to their affairs, to enable them to answer the exorbitant demands of Government; as it appeared from the witnesses at the Bar that the exactions of Parliament have amounted to more than the whole of the profits from the late acquisitions, and the trade in consequence of them; while the proprietors, who have spent so much, and so often risked their all for the obtaining these acquisitions, have not been permitted to divide even so much as the profits of their former trade would have afforded.

6thly, Because the Bill was brought in at a season when this House is always ill attended, and carried through with a violent and indecent precipitation. The reason assigned for this precipitation, is as unsatisfactory as the act is violent, 'That unless the Bill was passed, the Commissioners might sail during the recess at Christmas.' This, considering the circumstances, is almost physically impossible; nor if it were otherwise, can we think the mere possibility of the abuse of a legal right in the subject any sort of reason for our being precipitate in taking it away.

7thly, Because a reason of fact is alleged in the preamble of the Bill, stating the expense of the Commission to be very considerable. This House has not before it any account or estimate of the expenses actual or probable; nor are we supplied with any accounts showing, or tending to show, the present ability or inability of the Company to bear it; so that Lords are made to assert facts, and on these facts to ground a law, altering the condition, and suspending the charter rights of the Company, without a possibility of knowing whether the said facts are true or false. Lords, in whom the law places such an high confidence, that it accepts, in all cases of property, their honour in the place of the sworn testimony of other men, ought, in their public character, to be remarkably punctilious in affirming any matter which can affect such property, without a thorough knowledge of its truth.

8thly, Because this House, not content with asserting the said facts, without any knowledge of their foundation, did absolutely resolve to continue uninformed, refusing to call for the evidence of the directors concerning the expense, or in a matter of such importance,

both in itself and in its example, to follow the ancient settled parliamentary course of desiring a conference with the Commons, in order to be acquainted with the evidence which they had received, as the grounds of their proceeding; by which means this House submits to be the instrument of the Commons, to be merely the register of their acts, and to lower, in the estimation of the world, the natural honour and dignity of the Peers.

Lastly, Because this Bill of suspending the legal powers of the Company in the appointment of its own officers, appears to us to be part of a design long since formed, and never abandoned, for enlarging the influence of the crown (already far too prevalent and extensive), by the introduction of ministerial authority, in the nomination to the numerous lucrative employments now in the gift of the Company; a design which, adhering to the principles of the Protest of the 9th of February, 1768, we think ourselves obliged to oppose. We, therefore, do protest against this Bill, as evidently a leading part in that design, as inexpedient, unconstitutional, supported neither by any fact that we know, nor any reason that we have heard; as contrary to national faith, injurious to public credit and to the legal rights of the subject; and hurried through this House in a manner neither decent nor parliamentary, nor suitable to the independence and dignity of the Lords.

William Cavendish, Duke of **Devonshire**.

Charles Lennox, Duke of **Richmond**.

George Byng, Viscount **Torrington**.

Edmund Boyle, Lord **Boyle** (Earl of **Orrery**).

William Henry Cavendish Bentinck, Duke of **Portland**.

CCCLX.

JUNE 10, 1773.

The difficulties in which the East India Company was placed, and the necessity which arose for pecuniary help from the Home Government, gave an advantage to the Ministry which they fully used, despite the remonstrances of the proprietors, and those who sympathised with them. Two bills were framed, receiving the royal assent on the 21st of June and 1st of July; the former regulating the government of the East India Company as well in India as in Europe, the other assisting them in their emergencies by a loan of Exchequer Bills, 13 Geo. III, cap. 63, 13 Geo. III, cap. 64.—See Mill's *British India*, book iv, chap. 9. For the debates on the subject, see *Parl. Hist.* vol. xvii, p. 799–871. It seems however that the interest felt in the affairs of the Company was limited. The

third reading was carried in the Commons by 131 to 21, and in the Lords the minority was from 12 to 17.

The following protest was inserted in consequence of certain motions made by the Duke of Richmond, asking for papers, Charters, &c., and desiring a conference with the Commons on the reports of their committees being negatived.

1st, Because a Bill evidently taking away, without consent or compensation, several rights and privileges now enjoyed by a great corporate body, purchased for a valuable consideration, and confirmed by the most solemn sanctions of parliamentary faith, can be justified only by such delinquency as incurs a forfeiture of those rights, or by such evident and urgent necessity as admits of no method consistent with the charter of the Company, for the immediate preservation of those objects for which the corporation was formed. The evidence therefore of such delinquency, of such necessity, depending essentially on matters of fact and record, it is impossible for Peers to proceed on this business in a proper manner, while they are unfurnished with that information, which it was our duty to demand, and which it was the disposition of the House to refuse.

2ndly, Because, the House of Commons had appointed committees to examine into the state and condition of the East India Company, and have from them received several Reports previous to the bringing in this Bill. A previous course of the same kind is equally necessary in this House; nor is it enough for Lords to be informed from common conversation that other men have done their duty, as a reason for neglecting ours. This House, nevertheless (in conformity to its late method of proceeding, but in direct contradiction to the uniform practice and principle of better times), has wholly declined to make any enquiry into this important and delicate subject; though such enquiry had been strongly recommended from the Throne at the opening of this Session. We conceive that those who advised that speech were obliged, as well from consistency as from respect to the Crown, to have been early in moving a proper enquiry; and not to have opposed it even when a Bill from the other House had, in common decency, rendered it at length indispensable. Not content with this neglect of duty, and contempt of his Majesty's recommendation, a conference with the Commons was also refused; by which, however imperfectly, the

inattention of the Peers might have been remedied by the diligence of the other House. And when a concession was made, that the Reports of the Committees of the House of Commons should be laid before us, on condition of their not being read by the clerk, this small concession of imperfect information was immediately withdrawn; and the House resolved to proceed altogether in the dark. We cannot reflect, without the utmost humiliation, on the total revolution which has happened in the sentiments and conduct of this House, within so short a time as since the year 1720, when the Lords, in considering the affairs of the South Sea Company, exerted the greatest diligence through the whole of a very long Session, in a strict parliamentary inquisition into facts, before they thought themselves authorized to resort to an extraordinary use of the legislative powers.

3rdly, Because we conceive that the reason of dispatch assigned for this refusal of all sorts of information to be unworthy the legislative and the judicial character of the House. We are persuaded that, invested as we are, with a public trust of the highest importance, we ought, in all cases, to postpone our amusements to our duties; and are bound to measure our consideration of the affairs before us, not by the season of the year, but by the nature of the business. In the year 1720, the Lords had a conference with the Commons, which began in July, and did not end till the 25th of that month. If we once admit the advanced period of the Session as a reason of refusing to ourselves every information required by the case, the Commons have it in their power to preclude the House from the exercise of its deliberative capacity; they have nothing more to do, than to keep business of importance until the summer is advanced, and then the delay in that House is to be assigned as a sufficient ground for a precipitate acquiescence in this. Our predecessors in this House were so well aware of the use which, in future times, might be made of such a practice of the Commons, and such an argument drawn from it here, that they have expressly condemned both the practice and argument by our standing order, *Die Martis, 5^o Mai 1668*; which standing order we insert in this protest, that it may appear, that in this obstinate refusal of such an enquiry as the subject called for, the House has trespassed as much against its own rules of proceeding, as against the general rights and privileges of the people.

‘Upon report, made by the Lord Chamberlain, from the committee of the whole House, concerning the Bill, for raising £310,000 by an imposition on wines, and other liquors; that in regard the said Bill being very long, and consisting of many paragraphs, came from the House of Commons so near the time of adjournment, he was commanded to report it as the opinion of the committee, that it might be entered into the Journal book of this House, that there be no such argument hereafter used in this House, as was upon this Bill (of shortness of time for the passing of Bills), to precipitate the passing thereof, but that due consideration may be had hereafter according to the course of parliaments. The Lords spiritual and temporal, in Parliament assembled, agreed with the report made from the committee, and ordered that this order be added to the roll of standing orders of this House.’

4thly, Because we think, that having rejected the ancient, reasonable, and parliamentary mode of proceeding, the maxim established in this place is dangerous and irrational. We do constantly deny that what is commonly called public notoriety (which is in reality no better than common rumour) is, or can be a ground for any act which may conclusively impair, much less wholly take away, any one of the rights of the subject; such supposed notoriety being frequently uncertain in its foundation, generally under the influence of violent passions, and entirely destitute of that accuracy, which is necessary for ascertaining the nature, extent, or tendency, of any grievance, or consequently for furnishing any wise or adequate methods of redress.

Charles Lennox, Duke of **Richmond**.

Charles Watson Wentworth, Marquis of **Rockingham**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

William Henry Cavendish Bentinck, Duke of **Portland**.

Joseph Damer, Lord **Milton**.

William Cavendish, Duke of **Devonshire**.

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

CCCLXI.

JUNE 19, 1773.

The following protest was entered against the third reading of the East India Company Regulation Bill. It is said that there was a warm and long debate on the motion that the Bill do pass, but no record of the debate exists.

1st, Because the preamble to this Bill, stating defects in the powers of the East India Company, abuses in its administration, and injuries to public and commercial credit, ought to have been supported by evidence adapted to the nature of the several matters alleged: but the production of charters has been refused by the House; no witnesses have been called to ascertain the existence or quality of the supposed abuses; no enquiry has been made into the condition of public credit; and no state of the Company's commercial affairs has ever been laid before us.

2ndly, Because, if the defects in the charters, and abuses in the administration of the Company, exist in the manner stated in the preamble, no effectual provision is made in the enacting part of the Bill for supplying the one or reforming the other. On the contrary, the utmost distraction is introduced into the whole economy of their affairs. The nomination to the subordinate presidencies and inferior offices in India is left to the Company; but a superior presidency is appointed by Parliament to govern those inferior officers. The superior presidency is to receive orders from the court of directors; but it is left to the private will of the King how far these orders shall be obeyed: the presidency is appointed to make ordinances and regulations; but neither directors nor Company are to determine on their validity: the King alone is to allow or disallow those acts, as he shall choose to signify his pleasure under his sign manual. This mode of vesting ultimately the whole management of the Company's weighty political affairs, their vast revenues, and their extensive commerce, in the King's private discretion, without any provision in the Bill for the intervention of any public body (either the East India Company, or the Privy Council), or any responsible public minister, is, we insist, not only an high and dangerous violation of the yet unquestioned charters of the Company, but a total subversion of all the principles of the law and constitution of this Kingdom.

3rdly, Because the election of executive officers in Parliament is plainly unconstitutional, and an example of the most pernicious kind, productive of intrigue and faction, and calculated for extending a corrupt influence in the Crown. It frees ministers from responsibility, whilst it leaves them all the effect of patronage. It defeats the wise design of the constitution, which placed the nomination of all officers, either immediately or derivatively, in the

Crown ; whilst it committed the check upon improper nominations to Parliament. But this Bill, by confounding those powers which the constitution meant to keep separate, has destroyed this control, along with every wise provision of the laws to prevent abuses either in the nomination to, or exercise of office.

4thly, Because this usurpation of the Company's rights in appointing the servants is loaded with the additional injustice of a compulsory payment of salaries, arbitrarily fixed and chargeable upon the Company's revenues, without their consent.

5thly, Because the violation of the charter is not justified by the importance of the provisions of this Bill, which operates only to transfer patronage without conferring new powers : it being expressly provided by the Bill, that these powers should be the same as were formerly exercised by the Company's servants under the Company's authority. Neither is any advantage gained with regard to the particular officers named in this Bill ; the person first in rank and importance in the new parliamentary presidency, being the very same now at the head of the Company's presidency in Bengal. We mean to reflect neither upon that gentleman nor on any other appointed, who (for any thing we know to the contrary) may be men of competent ability and good character ; but we think ourselves bound to declare against the manifest contradiction and absurdity of this Bill, which stating abuses are now existing in India, for the ground of its regulations, yet appoints the very persons to preside there, who, if the allegations in the Bill be true, must be concerned, either by neglect or actual commission, in all the abuses complained of.

6thly, Because the appointing judges by the nomination of the Crown with large salaries, payable out of the Company's revenue, without the Company's consent either to the appointment or the payment, is an act of flagrant injustice, and an outrage on all the rights of property. No necessity can be pleaded in favour of this violence, as the Company did last year voluntarily propose a nomination of judges, with far better provisions for securing a proper appointment than any contained in this Bill.

7thly, Because the clause of this Bill which deprives of all share in the management of their own property all proprietors not possessed of £1000 capital stock, disfranchising, without the assignment of any delinquency or abuse, no less than 1246 persons legally

qualified, is an heinous act of injustice, oppression, and absurdity, and a gross perversion of the high powers entrusted to legislature. The part of the Charter which regulates the right of voting was made to establish exclusively that class of voters which this Act has destroyed. The Charter knows of no right of voting but the possession of £500 capital stock. It excludes all title to superior influence from superior property. The several laws to prevent the splitting of stock are all in affirmance of this principle, and made to secure this voter. But, by a system of contradiction that, except in this Bill, has no example, the very grievance of splitting of stock, by which the proprietor under £1000 has been injured, is assigned as the sole ground for depriving him of his franchise. This lower proprietor could not possibly have been guilty of this offence, and yet he is punished; and the large stock-holder, who alone could be guilty of the splitting, is indulged with new privileges, in contradiction to the spirit of that charter which he is supposed to have violated.

8thly, Because the lengthening the continuance of the direction, while the body of the proprietors is disfranchised, and the making the directors dependent on the private will of the King for the exertion of the little authority left to them in India by this Act, tends to pervert all the powers of that great body into mere instruments of the court, and to extend influence of the worst kind in the worst manner in which it can be exerted.

9thly, Because the great principle upon which the Bill has been supported will not only in this, but in all cases, justify every infringement of the national faith, and render parliamentary sanction the worst of all securities. We never can admit that a mere speculation of political improvement can justify Parliament in taking away rights which it has expressly covenanted to preserve, especially when it has received a valuable consideration for the franchises so stipulated. Nor are grants of Parliament under these circumstances to be considered as gratuitous donations, resumable merely at the pleasure of the giver, but matters of binding contract, forfeitable only on such delinquency or necessity as is implied in the nature of every other bargain. With such matters before us that require the best, we are denied all manner of information. A Bill, the object of which has taken the Commons near eight months to consider, is precipitated through this House in little

more than eight days, without any attention to parliamentary usage or decorum ; as if the Lords were the lowest of ministerial tools, who are not to be indulged even with an appearance of discussion concerning the mandates they receive. In this situation we feel the honour of the peerage tarnished, and its dignity degraded. If the provisions and precedent of this Bill should render the public faith of Great Britain of no estimation, the franchises, rights, and properties of Englishmen precarious, and the peerage distinguishable only by a more than common measure of indolence and servility ; if the boundless fund of corruption furnished by this Bill to the servants of the Crown should efface every idea of honour, public spirit and independence from every rank of people ; after struggling vainly against these evils, we have nothing left but the satisfaction of recording our names to posterity, as those who resisted the whole of this iniquitous system, as men who had no share in betraying to blind prejudices or sordid interest every thing that has hitherto been held sacred in this country.

Willoughby Bertie, Earl of **Abingdon**.

George Byng, Viscount **Torrington**.

Edmund Boyle, Lord **Boyle** (Earl of Cork and Orrery).

Richard Grosvenor, Lord **Grosvenor**.

William Cavendish, Duke of **Devonshire**.

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

William Henry Cavendish Bentinck, Duke of **Portland**.

Thomas King, Lord **King**.

Joseph Damer, Lord **Milton**.

Charles Lennox, Duke of **Richmond**.

Andrew Archer, Lord **Archer**.

Charles Watson Wentworth, Marquis of **Rockingham**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

CCCLXII.

MAY 11, 1774.

The attack on the tea ships in Boston harbour took place on the 16th of December, 1773, and irritated in the highest degree both the Administration and Parliament. On the 7th of March, a message from the King was sent to both Houses, accompanied by certain documents (109 in number) bearing on the transaction. On the 14th of March, Lord North brought in the Boston Port Bill, closing the port of Boston harbour, with a view to transferring it to another site, but reserving to the Crown the right of replacing the port after compensation was made to the East India Company for the value of the tea destroyed. This Bill passed the Commons without a division, and within a fortnight after its

introduction, on the 25th of March. On the 15th of April, Lord North brought in the Bill for regulating the Government of Massachusetts Bay, and the third for the administration of justice in the same colony. The first of these Bills received the royal assent on the 31st of March: the second and third on the 20th of May.

The following protest was entered against the passing of the Regulation Bill. The debate is lost, and the third reading was carried by 92 to 20.

1st, Because this Bill, forming a principal part in a system of punishment and regulation, has been carried through the House without a due regard to those indispensable rules of public proceeding, without the observation of which no regulation can be prudently made, and no punishment justly inflicted. Before it can be pretended, that those rights of the colony of Massachusetts Bay, in the election of counsellors, magistrates, and judges, and in the return of jurors, which they derive from their Charter, could with propriety be taken away, the definite legal offence, by which a forfeiture of that Charter is incurred, ought to have been clearly stated and fully proved; notice of this adverse proceeding ought to have been given to the parties affected; and they ought to have been heard in their own defence. Such a principle of proceeding would have been inviolably observed in the courts below. It is not technical formality, but substantial justice. When therefore the magnitude of such a Cause transfers it from the cognizance of the inferior courts, to the high judicature of Parliament, the Lords are so far from being authorised to reject this equitable principle, that we are bound to an extraordinary and religious strictness in the observance of it. The Subject ought to be indemnified by a more liberal and beneficial justice in Parliament, for what he must inevitably suffer by being deprived of many of the forms which are wisely established in the courts of ordinary resort, for his protection against the dangerous promptitude of arbitrary discretion.

2ndly, Because the necessity alleged for this precipitate mode of judicial proceeding cannot exist. If the numerous land and marine forces, which are ordered to assemble in Massachusetts Bay, are not sufficient to keep that single colony in any tolerable state of order, until the cause of its Charter can be fairly and equally tried, no regulation in this Bill, or in any of those hitherto brought into the House, are sufficient for that purpose; and we conceive, that the mere celerity of a decision against the Charter of that

Province, will not reconcile the minds of the people to that mode of government which is to be established upon its ruins.

3rdly, Because Lords are not in a situation to determine how far the regulations of which this Bill is composed, agree or disagree with those parts of the constitution of the colony that are not altered, with the circumstances of the people, and with the whole detail of their municipal institutions. Neither the Charter of the colony, nor any account whatsoever of its courts and judicial proceedings, their mode, or the exercise of their present powers, have been produced to the House. The slightest evidence concerning any one of the many inconveniences, stated in the preamble of the Bill to have arisen from the present constitution of the colony judicatures, has not been produced, or even attempted. On the same general allegations of a declamatory preamble, any other right, or all the rights of this or any other public body, may be taken away, and any visionary scheme of government substituted in their place.

4thly, Because we think, that the appointment of all the members of the Council, which by this Bill is vested in the Crown, is not a proper provision for preserving the equilibrium of the colony constitution. The power given to the Crown of occasionally increasing or lessening the number of the council on the report of governors, and at the pleasure of ministers, must make these governors and ministers masters of every question in that assembly; and by destroying its freedom of deliberation, will wholly annihilate its use. The intention avowed in this Bill of bringing the Council to the platform of other colonies, is not likely to answer its own end; as the colonies, where the council is named by the Crown, are not at all better disposed to a submission to the practice of taxing for supply without their consent, than this of Massachusetts Bay. And no pretence of bringing it to the model of the English constitution can be supported, as none of those American councils have the least resemblance to the House of Peers. So that this new scheme of a Council stands upon no sort of foundation which the proposers of it think proper to acknowledge.

5thly, Because the new constitution of judicature provided by this Bill is improper, and incongruous with the plan of the administration of justice in Great Britain. All the judges are to be

henceforth nominated (not by the Crown) but by the governor; and all (except the judges of the superior court) are to be removable at his pleasure, and expressly without the consent of that very council which has been nominated by the Crown.—The appointment of the sheriff, is by the will of the governor only, and without requiring in the person appointed any local or other qualification; that sheriff, a magistrate of great importance to the whole administration and execution of all justice, civil and criminal, and who in England is not removable even by the royal authority, during the continuance of the term of his office, is by this Bill made changeable by the governor and council, and often, and for such purposes as they shall think expedient. The governor and council thus entrusted with powers, with which the British constitution has not trusted his Majesty and his privy council, have the means of returning such a jury in each particular cause, as may best suit with • the gratification of their passions and interests. The lives, liberties, and properties of the subject are put into their hands without control; and the invaluable right of trial by jury, is turned into a snare for the people, who have hitherto looked upon it as their • main security against the licentiousness of power.

6thly, Because we see in this Bill the same scheme of strengthening the authority of the officers and ministers of state, at the expense of the rights and liberties of the subject, which are indicated by the inauspicious Act for shutting up the harbour of Boston. By that Act, which is immediately connected with this Bill, the example was set of a large important city (containing vast multitudes of people, many of whom must be innocent, and all of whom are unheard by an arbitrary sentence), deprived of the advantage of that port, upon which all their means of livelihood did immediately depend. This proscription is not made determinable on the payment of a fine for an offence, or a compensation for an injury; but is to continue until the ministers of the Crown shall think fit to advise the King in council to revoke it. The legal condition of the subject (standing unattainted by conviction, for treason or felony) ought never to depend upon the arbitrary will of any person whatsoever. This Act, unexampled on the records of Parliament, has been entered on the Journals of this House as voted *nemine dissente*, and has been stated in the debate of this day, to have been sent to the colonies, as passed without a division in either House,

and therefore as conveying the uncontroverted universal sense of the nation. The despair of making effectual opposition to an unjust measure, has been construed into an approbation of it. An unfair advantage has been taken on the final question for passing that penal Bill of the absence of those Lords, who had debated it for several hours, and strongly dissented from it on the second reading; that period on which it is most usual to debate the principle of a Bill. If this proceeding were to pass without animadversion, Lords might think themselves obliged to reiterate their debates, at every stage of every Bill which they oppose, and to make a formal division whenever they debate.

7thly, Because this Bill, and the other proceedings that accompany it, are intended for the support of that unadvised scheme of taxing the colonies, in a manner new, and unsuitable to their situation and constitutional circumstances. Parliament has asserted the authority of the legislature of this Kingdom, supreme and unlimited, over all the members of the British empire. But the legal extent of this authority furnishes no argument in favour of an unwarrantable use of it. The sense of the nation on the repeal of the Stamp Act was, that, in equity and sound policy, the taxation of the colonies for the ordinary purposes of supply, ought to be forborn; and that this Kingdom ought to satisfy itself with the advantages to be derived from a flourishing and increasing trade, and with the free grants of the American assemblies; as being far more beneficial, far more easily obtained, less oppressive, and more likely to be lasting than any revenue to be acquired by parliamentary taxes, accompanied by a total alienation of the affections of those who were to pay them. This principle of repeal was nothing more than a return to the ancient standing policy of this empire. The unhappy departure from it, has led to that course of shifting and contradictory measures, which have since given rise to such continued distractions; by which unadvised plan, new duties have been imposed in the very year after the former had been repealed; these new duties afterwards in part repealed, and in part continued, in contradiction to the principles upon which those repealed were given up; all which, with many weak, injudicious, and precipitate steps taken to enforce a compliance, have kept up that jealousy, which on the repeal of the Stamp Act was subsiding; revived dangerous questions, and gradually estranged the affections

of the colonies from the mother country, without any object of advantage to either. If the force proposed should have its full effect, that effect we greatly apprehend may not continue longer than whilst the sword is held up. To render the colonies permanently advantageous, they must be satisfied with their condition: that satisfaction we see no chance of restoring, whatever measures may be pursued, except by recurring, in the whole, to the wise and salutary principles on which the Stamp Act was repealed.

Charles Lennox, Duke of **Richmond**.

Thomas Howard, Earl of **Effingham**.

William Robert Fitzgerald, Viscount **Leinster** (Duke of Leinster).

William Henry Cavendish Bentinck, Duke of **Portland**.

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

William Craven, Lord **Craven**.

Willoughby Bertie, Earl of **Abingdon**.

Charles Watson Wentworth, Marquis of **Rockingham**.

William Wentworth Fitzwilliam, Earl of **Fitzwilliam**.

Thomas King, Lord **King**.

George Neville, Lord **Abergavenny**.

CCCLXIII.

MAY 18, 1774.

The Act for the administration of justice in Massachusetts Bay was read a third time and passed, notwithstanding the petition of William Bollan, the agent of the province, who had petitioned against the other Bills and begged to be heard by counsel at the Bar; and the speeches of Lord Shelburne, the Duke of Manchester, the Marquis of Rockingham, and the Duke of Richmond. The Bill was carried by 43 to 12.

The following protest was entered.

1st, Because no evidence whatsoever has been laid before the House, tending to prove, that persons acting in support of public authority, and indicted for murder, cannot receive a fair trial within the province, which is the object of this Bill. On the contrary, it has happened that an officer of the army, charged with murder, has there received a fair and equitable trial, and been acquitted. This fact has happened even since the commencement of the present unhappy dissensions.

2ndly, Because, after the proscription of the port of Boston, the disfranchisement of the colony of Massachusetts Bay, and the variety of provisions which have been made in this Session for new modelling the whole polity and judicature of that province, this Bill is an

humiliating confession of the weakness and inefficacy of all the proceedings of Parliament. By supposing that it may be impracticable by any means that the public wisdom could devise, to obtain a fair trial there, for any who act under government, the House is made virtually to acknowledge the British government to be universally odious to the whole province. By supposing the case that such trial may be equally impracticable in every other province of America, Parliament does in effect admit, that its authority is, or probably may, become hateful to all the colonies. This we apprehend is to publish to the world, in terms the most emphatical, the little confidence the supreme legislature reposes in the affection of so large and so important a part of the British empire. If Parliament believed that any considerable number of the people in the colonies were willing to act in support of British government, it is evident that we might safely trust the persons so acting to their fellow colonists, for a fair trial for acts done in consequence of such support. The Bill therefore amounts to a declaration, that the House knows no means of retaining the colonies in due obedience, but by an army rendered independent of the ordinary course of law, in the place where they are employed.

3rdly, Because we think, that a military force, sufficient for governing upon this plan, cannot be maintained without the inevitable ruin of the nation.

Lastly, Because this Bill seems to be one of the many experiments towards an introduction of essential innovations into the government of this empire. The virtual indemnity provided by this Bill, for those who shall be indicted for murders committed under colour of office, can answer no other purpose. We consider that to be an indemnity which renders trial, and consequently punishment, impracticable; and trial is impracticable, when the very governor, under whose authority acts of violence may be committed, is empowered to send the instruments of that violence to three thousand miles distance from the scene of their offence, the reach of their prosecutor, and the local evidence, which may tend to their conviction. The authority given by this Bill, to compel the transportation from America to Great Britain, of any number of witnesses at the pleasure of the parties prosecuting and prosecuted, without any regard to their age, sex, health, circumstances, business, or duties, seems to us so extravagant in its principle, and so

impracticable in its execution, as to confirm us further in our opinion of the spirit which animates the whole system of the present American regulations.

Charles Lennox, Duke of **Richmond**.

Charles Watson Wentworth, Marquis of **Rockingham**.

William Robert Fitzgerald, Viscount **Leinster** (Duke of Leinster).

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

William Henry Cavendish Bentinck, Duke of **Portland**.

George Montagu, Duke of **Manchester**.

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

William Craven, Lord **Craven**.

CCCLXIV.

NOVEMBER 30, 1774.

The Speech from the Throne delivered this day contained reference to the disturbances which had broken out in Massachusetts Bay, and to the sympathy which the other colonies had shown to the offenders. The address to the Crown as usual was an echo of the Speech. The Duke of Richmond moved the addition of a clause as follows:—‘To desire his Majesty would be graciously pleased to give direction for an early communication of the accounts which have been received concerning the state of the colonies, that we may not proceed to the consideration of this most critical and important matter, but upon the fullest information, and when we are thus informed, we shall without delay, apply ourselves with the most earnest and serious zeal to such measures as shall tend to secure the honour of his Majesty’s Crown, the true dignity of the mother country, and the harmony and happiness of all his Majesty’s dominions.’ This motion was supported by Lord Shelburne and Lord Camden, but was rejected by 63 to 13. For the events in America during the year, see Stanhope, chap. li.

1st, Because we cannot agree to commit ourselves with the careless facility of a common address of compliment, in expressions, which may lead to measures in the event fatal to the lives, properties, and liberties of a very great part of our fellow subjects. We conceive that an address upon such objects as are before us, and at such a time as this, must necessarily have a considerable influence upon our future proceedings; and must impress the public with an idea of the general spirit of the measures which we mean to support. Whatever methods we shall think it advisable to pursue, either in support of the mere authority of Parliament, which seems to be the sole consideration with some, or for reconciling that authority with the peace and satisfaction of the whole empire, which has ever been our constant and invariable object, it will certainly add to the

weight and efficacy of our proceedings, if they appear the result of full information, mature deliberation, and temperate enquiry. No materials for such an enquiry have been laid before us; nor have any such been so much as promised in the Speech from the Throne, or even in any verbal assurance from Ministers. In this situation we are called upon to make an address, arbitrarily imposing qualities and descriptions upon acts done in the colonies, of the true nature and just extent of which we are as yet in a great measure unapprised; a procedure which appears to us by no means consonant to that purity which we ought ever to preserve in our judicial, and to that caution which ought always to guide us in our deliberate capacity.

2ndly, Because this address does, in effect, imply an approbation of the system adopted with regard to the colonies in the last Parliament. This unfortunate system, conceived with so little prudence, and pursued with so little temper, consistency, or foresight, we were in hopes would be at length abandoned, from an experience of the mischiefs which it has produced, in proportion to the time in which it was continued, and the diligence with which it has been pursued; a system which has created the utmost confusion in the colonies, without any rational hope of advantage to the revenue, and with certain detriment to the commerce of the mother country. And it affords us a melancholy prospect of the disposition of Lords in the present Parliament, when we see the House, under the pressure of so severe and uniform an experience, again ready without any enquiry, to countenance, if not to adopt, the spirit of the former fatal proceedings. But whatever may be the mischievous designs, or the inconsiderate temerity, which leads others to this desperate course, we wish to be known as persons who have ever disapproved of measures so pernicious in their past effects, and their future tendency, and who are not in haste, without enquiry or information, to commit ourselves in declarations which may precipitate our country into all the calamities of a civil war.

Charles Lennox, Duke of Richmond.

William Petty, Lord Wycombe (Earl of Shelburne).

Charles Watson Wentworth, Marquis of Rockingham.

George Henry Grey, Earl of Stamford.

Charles Pratt, Lord Camden.

William Ponsonby, Lord Ponsonby (Earl of Bessborough).

William Henry Cavendish Bentinck, Duke of Portland.

George Byng, Viscount Torrington.
Philip Stanhope, Earl Stanhope.

CCCLXV.

FEBRUARY 7, 1775.

The Commons had drawn up an address to the King, with which they desired the concurrence of the Lords, on the state of affairs in America, and before the question was put, Lord Rockingham rose to present certain petitions from certain London merchants and local India planters. Lord Dartmouth rose at the same time, and after some confusion, the House ruled that it would hear the latter first. A long and acrimonious debate now ensued on the general question, though technically the subject before the House was whether the question should be put. It was carried in the affirmative by 104 to 29. The debate will be found in *Parliamentary History*, vol. xviii, p. 265.

The following protest was inserted.

1st, The previous question was moved, not to prevent the proceeding in the address communicated at the conference with the Commons, but in order to present the petition of the North American merchants, and of the West India merchants and planters, which petitions the House might reject if frivolous, or postpone if not urgent, as it might seem fit to their wisdom. But to hurry on the business to which these petitions so materially and directly related, the express prayer of which was, that they might be heard before 'any resolution may be taken by this right honourable House respecting America'; to refuse so much as to suffer them to be presented, is a proceeding of the most unwarrantable nature, and directly subversive of the most sacred rights of the subject. It is the more particularly exceptionable, as a Lord in his place, at the express desire of the West India merchants, informed the House, that, if necessitated so to do, they were ready, without counsel or farther preparation, instantly to offer evidence to prove that several islands of the West Indies could not be able to subsist, after the operation of the proposed address in America. Justice with regard to individuals, policy with regard to the public, and decorum with regard to ourselves, required that we should admit this Petition to be presented. By refusing it, justice is denied.

2ndly, Because the papers laid upon our table by Ministers are so manifestly defective, and so avowedly curtailed, that we can derive from them nothing like information of the true state of the object

on which we are going to act, or of the consequences of the resolutions which we may take. We ought, as we conceive, with gladness to have accepted that information from the merchants which, if it had not been voluntarily offered, it was our duty to seek. There is no information concerning the state of our colonies (taken in any point of view), which the merchants are not far more competent to give than governors or officers, who often know far less of the temper and disposition of the people, or may be more disposed to misrepresent it than the merchants. Of this we have a full and melancholy experience in the mistaken ideas on which the fatal Acts of the last Parliament were formed.

3rdly, Because we are of opinion, that in entering into a war in which mischief and inconvenience are great and certain, but the utmost extent of which it is impossible to foresee, true policy requires that those who are most likely to be immediately affected should be thoroughly satisfied of the deliberation with which it was undertaken; and we apprehend that the planters, merchants, and manufacturers, will not bear their losses and burthens, brought on them by the proposed civil war, the better, for our refusing so much as to hear them previous to our engaging in that war; nor will our precipitation in resolving, add much to the success in executing any plan that may be pursued.

We protest therefore against the refusal to suffer such petitions to be presented, and we thus clear ourselves to our country of the disgrace and mischief which must attend this unconstitutional, indecent, and improvident proceeding.

Charles Lennox, Duke of **Richmond**.

Thomas Howard, Earl of **Effingham**.

Charles Pratt, Lord **Camden**.

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

George Byng, Viscount **Torrington**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

Andrew Archer, Lord **Archer**.

Richard Lumley Sanderson, Earl of **Scarborough**.

Philip Stanhope, Earl **Stanhope**.

George Neville, Lord **Abergavenny**.

George James Cholmondeley, Earl **Cholmondeley**.

William Henry Cavendish Bentinck, Duke of **Portland**.

Charles Watson Wentworth, Marquis of **Rockingham**.

Charles Bennet, Earl of **Tankerville**.

William Petty, Lord **Wycombe** (Earl of Shelburne).

William Craven, Lord **Craven**.

William Courtenay, Viscount Courtenay.
Willoughby Bertie, Earl of Abingdon.

CCCLXVI.

FEBRUARY 7, 1775.

The main question was then put, whether to agree with the Commons in the said address by inserting the words 'Lords spiritual and temporal.' This was carried without a division. It should be remembered that a general election had lately taken place, which was favourable to the policy of Lord North.

The following protest was inserted.

1st, Because the violent matter of this dangerous address was highly aggravated by the violent manner in which it was precipitately hurried through the House, Lords were not allowed the interposition of a moment's time for deliberation before they were driven headlong into a declaration of civil war. A conference was held with the Commons; an address of this importance presented; all extraneous information, although offered, positively refused; all petitions arbitrarily rejected; and the whole of this most awful business received, debated, and concluded in a single day.

2ndly, Because no legal grounds were laid in argument or in fact to show that a rebellion, properly so called, did exist in Massachusetts Bay, when the papers of the latest date, and from whence alone we derive our information, were written. The overt acts to which the species of treason, affirmed in the address, ought to be applied, were not established, nor any offenders marked out. But a general mass of the acts of turbulence, said to be done at various times and places, and of various natures, were all thrown together to make out one general constructive treason. Neither was there any sort of proof of the continuance of any unlawful force from whence we could infer that a rebellion does now exist. And we are the more cautious of pronouncing any part of his Majesty's dominions to be in actual rebellion, because the cases of constructive treason under that branch of the 25th of Edward III, which describes the crime of rebellion, have been already so far extended by the judges, and the distinctions thereupon so nice and subtle, that no prudent man ought to declare any single person in that situation, without the clearest evidence of uncontrovertible overt acts, to warrant such a declaration. Much less ought so

high an authority as both Houses of Parliament, to denounce so severe a judgment against a considerable part of his Majesty's subjects, by which his forces may think themselves justified in commencing a war, without any further order or commission.

3rdly, Because we think that several Acts of the last Parliament, and several late proceedings of administration, with regard to the colonies, are real grievances, and just causes of complaint; and we cannot, in honour or in conscience, consent to an address which commends the temper by which proceedings so very intemperate have been carried on; nor can we persuade ourselves to authorise violent courses against persons in the colonies, who have resisted authority, without at the same time redressing the grievances which have given but too much provocation for their behaviour.

4thly, Because we think the loose and general assurances given by the address, of future redress of grievances, in case of submission, is far from satisfactory, or at all likely to produce their end, whilst the Acts complained of, continue unrepealed or unamended, and their authors remain in authority here, because these advisers of all the measures which have brought on the calamities of this empire will not be trusted while they defend, as just, necessary, and even indulgent, all the Acts complained of as grievances, by the Americans; and must therefore, on their own principles, be bound in future to govern the colonies in the manner which has already produced such fatal effects; and we fear that the refusal of this House, so much as to receive, previous to determination (which is the most offensive mode of rejection) petitions from the unoffending natives of Great Britain and the West India islands, affords us but a very discouraging prospect of our obtaining hereafter any petitions at all, from those whom we have declared actors in rebellion, or abettors of that crime.

Lastly, Because the means of enforcing the authority of the British legislature is confined to persons of whose capacity, for that purpose, from abundant experience, we have reason to doubt; and who having hitherto used no effectual means of conciliating or of reducing those who oppose that authority. This appears in the constant failure of all their projects, the insufficiency of all their information, and the disappointment of all the hopes, which they have for several years held out to the public. Parliament has never refused any of their proposals, and yet our affairs have

proceeded daily from bad to worse, until we have been brought, step by step, to that state of confusion, and even civil violence, which was the natural result of these desperate measures.

We therefore protest against an address amounting to a declaration of war, which is founded on no proper parliamentary information; which was introduced by refusing to suffer the presentation of petitions against it (although it be the undoubted right of the subject to present the same); which followed the rejection of every mode of conciliation; which holds out no substantial offer of redress of grievances; and which promises support to those ministers who have inflamed America, and grossly misconducted the affairs of Great Britain.

Charles ~~Lennox~~, Duke of Richmond.
 William Courtenay, Viscount Courtenay.
 Charles Pratt, Lord Camden.
 William Craven, Lord Craven.
 George Byng, Viscount Torrington.
 Thomas Howard, Earl of Effingham.
 Andrew Archer, Lord Archer.
 William Ponsonby, Lord Ponsonby (Earl of Bessborough).
 Philip Stanhope, Earl Stanhope.
 George Neville, Lord Abergavenny.
 George James Cholmondeley, Earl of Cholmondeley.
 Richard Lumley Sanderson, Earl of Scarborough.
 Charles Watson Wentworth, Marquis of Rockingham.
 William Wentworth Fitzwilliam, Earl Fitzwilliam.
 William Petty, Lord Wycombe (Earl of Shelburne).
 William Henry Cavendish Bentinck, Duke of Portland.
 Willoughby Bertie, Earl of Abingdon.
 Charles Bennet, Earl of Tankerville.

CCCLXVII.

MARCH 21, 1775.

A Bill was brought into the House of Commons by Lord North, to restrain the trade of the American colonies. On the question that the Bill with the amendments be engrossed, the affirmative was carried on the 6th of March by 215 to 61. The Bill was passed on the 8th of March, and sent to the Lords. It was debated there on the 15th of March, 16th of March, and passed on the 21st of March, with an amendment, including other plantations than those first stated, by 104 to 29 on the second reading, and by 73 to 21 on the third.

The following protest was inserted against passing the Bill, which Lord Abingdon called 'a most diabolic measure,' expressing his amazement that the Bishops voted for it.

1st, Because the attempt to coerce by famine, the whole body of the inhabitants of great and populous provinces, is without example in the history of this, or perhaps of any civilised nation; and is one of those unhappy inventions, to which Parliament is driven by the difficulties which daily multiply upon us, from an obstinate adherence to an unwise plan of government. We do not know exactly the extent of the combination against our commerce in New England, and the other colonies; but we do know the extent of the punishment we inflict upon it, which is universal, and includes all the inhabitants: amongst these, many are admitted to be innocent; and several are alleged by Ministers to be, in their sense, even meritorious. That government which attempts to preserve its authority by destroying the trade of its subjects, and by involving the innocent and guilty in a common ruin, if it acts from a choice of such means, confesses itself unworthy; if from inability to find any other, admits itself wholly incompetent to the ends of its institution.

2ndly, Because the English merchants are punished without any guilt, real or pretended, on their part. The people of the proscribed provinces, though failing in their duty to government, ought to be permitted to discharge their obligations to commerce. Without their fishery this is impossible. The merchants of England entertain no fears for their debts, except from the steps which are said to be taken in their favour. Eight hundred thousand pounds of English property, belonging to London alone, is not to be trifled with, or sacrificed to the projects of those who have constantly failed in every expectation which they have held out to the public, and who are become more bigotted to methods of violence, in proportion to the experience of their inefficacy, and the mischievous consequences which attend them.

3rdly, Because the people of New England, besides the natural claim of mankind to the gifts of Providence on their own coast, are specially entitled to the fishery by their Charters, which have never been declared forfeited. These Charters, we think (notwithstanding the contempt with which the idea of public faith has been treated) to be of material consideration. The Bill therefore not growing out of any judicial process, seems equally a violation of all natural and all civil right.

4thly, Because we conceive that the attempt which has been

made to bribe the nation into an acquiescence in this arbitrary Act, by holding out to them (by evidence at the Bar) the spoils of the New England fishery, worth upwards of £300,000 a year, to be a scheme full of weakness and indecency; of indecency, because it may be suspected that the desire of the confiscation has created the guilt; weak, because it supposes that whatever is taken from the colonies, is of course to be transferred to ourselves. We may trample on the rules of justice; but we cannot alter the nature of things. We cannot convey to Great Britain the advantages of situation which New England possesses for the fishery. If the value of the commodity should be enhanced at the foreign market by the exclusion of so large a part of the supply, it may either greatly injure the sale of the commodity itself, or put the consumers on new articles of consumption, or new methods of supply, to the just ruin of those who, deluded by avarice, have chosen, from the vain hope of an enhanced market, to disturb the natural, settled, and beneficial course of traffic.

5thly, Because we do not apprehend that the topic so much insisted upon by a Lord high in office¹, in favour of this project, namely, the cowardice of his Majesty's American subjects, to have any weight in itself, or to be at all agreeable to the dignity of sentiment which ought to characterise this House. We do not think it true, that any part of the subjects of this empire are defective in bravery. It is to the last degree improper to act upon such a supposition; as it must highly disgrace our arms in case of misfortune, and must take away all honour from them in case of success. Nothing can tend more effectually to defeat the purposes of all our coercive measures, than to let the people against whom they are intended know, that we think our authority founded in their baseness; that their resistance will give them some credit, even in our own eyes; and that we attribute their obedience only to their want of courage. This is to call for resistance, and to provoke rebellion by the most powerful of all motives, which can act upon men of any degree of spirit and sensibility.

6thly, Because the interdict from fishing and commerce, is not to be terminated by any certain and definite act to be done by the party interdicted, but its duration depends solely on the will of the governors and majority of the council in some of the provinces;

¹ 'The Lord' was Lord Sandwich. See Parliamentary History, vol. xviii, p. 446.

upon their mere arbitrary opinion of the state of commerce. In two of the proscribed provinces, the interdict is made to depend on the same arbitrary will in much worse hands, those of mere custom-house officers. A power of such magnitude is not fit to be delegated to any man, however wise or however exalted.

But to deliver over several hundred thousands of our fellow creatures to be starved at the mere pleasure of persons in certain subordinate situations, and some of them in an office always more or less suspicious and obnoxious, and necessary to be watched and guarded, rather than vested with absolute power over all; and this without any rule to guide their discretion, without any penalty to deter from an abuse of it; is a strain of such tyranny, oppression, and absurdity, as we believe never was deliberately entertained by any grave assembly.

Lastly, Because the Bill, though in appearance a measure of retaliation only, upon a supposition that the colonies have been the first aggressors by their association not to import goods from Great Britain, yet is in truth a most cruel enforcement of former oppressions; and that association is no more than a natural consequence of antecedent and repeated injuries. And since the restraint of this Bill is not to be taken off till the several colonies shall agree to receive again all goods whatsoever from Great Britain, and to pay all the duties imposed by Parliament, not excepting those upon tea; and since three of them must apply through the medium of the new council of Massachusetts Bay, and the last-mentioned province is obliged not only to acknowledge the new Charter, but submit in all respects to the severe conditions of the Port Bill, before they can be released from their hardships; since these are the terms, and the only terms, upon which this proscription is to cease, and the colonies must therefore submit to be the slaves instead of the subjects of Great Britain; this Bill in its principle is both arbitrary and unjust. And as we do not conceive any ground of expectation that the provinces will yield to such hard conditions, a civil war, which may probably end in the total separation of the colonies from the mother country, will too naturally be the consequence of this Bill; in respect of which, as well as for the other reasons hereby assigned, we do most solemnly and heartily protest against the same.

Willoughby Bertie, Earl of Abingdon.

William Craven, Lord **Craven**.
 George Neville, Lord **Abergavenny**.
 Philip Stanhope, Earl **Stanhope**.
 William Robert Fitzgerald, Viscount **Leinster** (Duke of Leinster).
 William Petty, Lord **Wycombe** (Earl of Shelburne).
 Charles Lennox, Duke of **Richmond**.
 William Cavendish, Duke of **Devonshire**.
 George Byng, Viscount **Torrington**.
 Charles Watson Wentworth, Marquis of **Rockingham**.
 Charles Pratt, Lord **Camden**.
 Thomas Howard, Earl of **Effingham**.
 William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 George James Cholmondeley, Earl **Cholmondeley**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 George Montagu, Duke of **Manchester**.

CCCLXVIII.

MAY 3, 1775.

A Bill was brought in to licence a playhouse at Manchester, as previously for one at Liverpool.

The following protest was inserted.

For the reasons entered in the Journal of the 26th of February, 1771, which I conceive, operate with at least equal force against establishing a theatre in the town of Manchester. And because no arguments or local considerations whatever can, in my judgment, justify even the partial repeal of a Law so well calculated to restrain dissipation and licentiousness, and to promote the cause of industry, morality, and religion, as every such repeal directly tends to the increase of those very evils which, in the late address of Convocation to his Majesty, the Prelates themselves (who now with such consistency countenance this Bill) observe with infinite concern, do at this time present a very gloomy prospect to every serious and considerate mind.

William Bouverie, Earl of **Radnor**.

CCCLXIX.

MAY 12, 1775.

Lord Radnor's protest was made a subject of complaint (Parliamentary History, vol. xviii, p. 632) on the 12th of May, when the Manchester Play-

house Bill was brought on for second reading, and he was intreated to erase the expressions which had given offence to the Bench. Lord Lyttelton also bantered Lord Radnor on his piety, and threatened to move that the protest be expunged. Lord Radnor stood his ground, the Bill was committed by 33 to 25, and the following additional protest was entered.

Because the several reasons already entered against passing Bills of this nature have in this debate received additional weight and force from the argument of the prelates, and their unanimous vote; for though by refusing without any reason assigned, to divide for the previous question, moved upon the question of rejection, after the first reading (which gave time for procuring a petition in favour of the Bill), they appeared to me to countenance this Bill; yet as their Lordships have this day solemnly avowed in argument, that they had no such intention, and think they unjustly suffer by the imputation of it, it would be injurious to the Reverend Bench, as well as to the argument, not to say I am strengthened in my objections to the Bill, by their Lordship's declaration of their having been uniformly as well as unanimously against it.

William Bouverie, Earl of Radnor.

CCCLXX.

OCTOBER 26, 1775.

The first affair of Lexington took place on the 19th of April, 1775, the unfortunate march from Concord to Boston, afterwards called the battle of Lexington, a short time after, and the capture of Ticonderoga on the 10th of May. The colonists afterwards called themselves the United Colonies, chose Washington as their Commander-in-Chief on the 15th of June, and fought the battle of Bunker's Hill on the 18th. Parliament met on the 26th of October, and the King's Speech contained passages in which the determination of the Americans to establish an independent empire is affirmed. The Address was as usual an echo of the Speech, but Lord Rockingham moved that the following words be inserted after the words 'gracious Speech from the Throne':— 'That we behold with the utmost concern the disorders and discontents in the British colonies rather increased than diminished by the means which have been used to suppress and allay them; a circumstance alone sufficient to give this House just reason to fear, that those means were not originally well considered, or properly adapted to answer the ends to

which they were directed. We are satisfied by experience, that this misfortune has, in a great measure, arisen from the want of full and proper information being laid before Parliament of the true state and condition of the colonies, by reason of which, measures have been carried into execution injudicious and inefficacious, from whence no salutary end was reasonably to be expected, tending to tarnish the lustre of the British arms, to bring discredit on the wisdom of his Majesty's councils, and to nourish, without hope of end, a most unhappy civil war. Deeply impressed with a sense of this melancholy state of the public concerns, we shall, on the fullest information we can obtain, and with the most mature deliberation we can employ, review the whole of the late proceedings, that we may be enabled to discover, as we shall be most willing to apply, the most effectual means for restoring order to the distracted affairs of the British empire, confidence to his Majesty's government, obedience, by a prudent and temperate use of its powers, to the authority of Parliament, and satisfaction and happiness to all his people. By these means, we trust, we shall avoid any occasion for having recourse to the alarming and dangerous expedient of calling in foreign forces to the support of his Majesty's authority within his own dominions, and the still more dreadful calamity of shedding British blood by British hands.' A debate followed, and the amendment was negatived by 69 to 29.

The following protest was entered.

1st, Because we cannot, as Englishmen, as Christians, or as men of common humanity, consent to the prosecution of a cruel civil war, so little supported by justice, and so very fatal in its necessary consequences, as that which is now waging against our brethren and fellow subjects in America. We have beheld with sorrow and indignation, session after session, and notwithstanding repeated warnings of the danger, attempts made to deprive some millions of British subjects of their trade, their laws, their constitution, their mutual intercourse, and of the very food which God has given them for their subsistence. We have beheld endeavours used to enforce these impolitic severities at the point of the bayonet. We have, on the other hand, beheld so large a part of the empire, united in one common cause, really sacrificing with cheerfulness their lives and fortunes, and preferring all the horrors of a war raging in the very heart of their country, to ignominious ease. We have beheld this part of his Majesty's subjects, thus irritated by resistance, and so successful in it, still making professions, in which we think it neither wise nor decent to affect a disbelief, of the utmost loyalty to his Majesty; and unwearied with continued repulses, repeatedly petitioning for conciliation, upon such terms only as shall be

consistent with the dignity and welfare of the mother country. When we consider these things, we cannot look upon our fellow subjects in America in any other light than that of freemen driven to resistance by acts of oppression and violence.

2ndly, Because this unnatural war, thus commenced in oppression, and in the most erroneous policy, must, if persevered in, be finally ruinous in its effects. The commerce of Great Britain with America was great and increasing, the profits immense, the advantages, as a nursery of seamen, and as an inexhaustible magazine of naval stores, infinite; and the continuance of that commerce, particularly in times of war, when most wanted to support our fleets and revenues, not precarious, as all foreign trade must be, but depending solely on ourselves. These valuable resources, which enabled us to face the united efforts of the House of Bourbon, are actually lost to Great Britain, and irretrievably lost, unless redeemed by immediate and effectual pacification.

3rdly, Because Great Britain, deprived of so valuable a part of its resources, and not animated, either with motives of self-defence, or with those prospects of advantage and glory, which have hitherto supported this nation in all its foreign wars, may possibly find itself unable to supply the means of carrying on a civil war, at such a vast distance, in a country so peculiarly circumstanced, and under the complicated difficulties which necessarily attend it. Still less should we be able to preserve, by mere force, that vast continent, and that growing multitude of resolute freemen who inhabit it; even if that or any country, was worth governing against the inclination of all its inhabitants. But we fear, that while we are making these fruitless efforts, refusing to give credit to the declarations of our fellow subjects, and blindly confiding in the insidious professions of the natural enemies of this country, we are preparing an easy prey for those who prudently sit quiet, beholding British forces, which, if united, might be in a condition, from their valour, numbers, and discipline, to carry terror into the very heart of their kingdoms, destroying each other. Every event, whichever way it turns, is a victory to them. Our very hospitals furnish them with daily triumphs; the greater, as they are certain, without any risk to them of men or money.

4thly, Because we conceive the calling in foreign forces to decide domestic quarrels, to be a measure both disgraceful and dangerous;

and that the advice which ministers have dared to give to his Majesty, which they have avowed and carried into execution, of sending to the garrisons of Gibraltar and Port Mahon, the dominions of the Crown of Great Britain, a part of his electoral troops, without any previous consent, recommendation or authority of Parliament, is unconstitutional. That Hanoverian troops should, at the mere pleasure of the ministers, be considered as a part of the British military establishment, and take a rotation of garrison duties through these dominions, is, in practice and precedent, of the highest danger to the safety and liberties of this Kingdom, and tends wholly to invalidate the wise and salutary declaration of the grand fundamental law of our glorious deliverer, King William, which has bound together the rights of the subject and the succession of the Crown.

5thly, Because the ministers, who are to be entrusted with the management of this war, have proved themselves unequal to the task, and in every degree unworthy of public trust. Parliament has given them every assistance they asked; no unforeseen accidents have stood in their way; no storms have disabled or delayed their operations; no foreign power hath, as yet, interfered: but notwithstanding these advantages, by their ignorance, negligence, and want of conduct, our arms have been disgraced; upwards of ten thousand of the flower of our army, with an immense artillery, under four generals of reputation, and backed with a great naval force, have been miserably blockaded in one sea-port town, and after repeated and obstinate battles, in which such numbers of our bravest men have fallen, the British forces have not been able to penetrate one mile into the country which they were sent to subdue; important fortresses are seized, the governors are driven from their provinces, and it is doubtful whether, at this moment, we are in possession of a single town in all North America. Whether we consider its extent or its commerce, England has lost half its empire in one campaign. Nor can we impute the misconduct of ministers to mere inability, nor to their ignorance of the state of America, upon which they attempt to justify themselves. For while some members of administration confess they were deceived as to the strength and condition of the provinces, we have from others received official information, that the insufficiency of the navy was concealed from Parliament, and part of Administration,

from a fear of not receiving support from its members. We cannot therefore consent to an address which may deceive his Majesty and the public into a belief of the confidence of this House in the present ministers, who have deceived Parliament, disgraced the nation, lost the colonies, and involved us in a civil war against our clearest interests; and, upon the most unjustifiable grounds, wantonly spilling the blood of thousands of our fellow subjects.

Thomas Howard, Earl of **Effingham**.
 John Byng, Viscount **Torrington**.
 George James Cholmondeley, Earl **Cholmondeley**.
 George Henry Grey, Earl of **Stamford**.
 William Cavendish, Duke of **Devonshire**.
 Edmund Boyle, Lord **Boyle** (Earl of Cork and Orrery).
 Charles Watson Wentworth, Marquis of **Rockingham**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 Thomas King, Lord **King**.
 William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 Henry Frederic Howe, Lord **Chedworth**.
 William Craven, Lord **Craven**.
 Charles Lennox, Duke of **Richmond**.
 Andrew Archer, Lord **Archer**.
 William Henry Cavendish Bentinck, Duke of **Portland**.
 Willoughby Bertie, Earl of **Abingdon**.
 Richard Lumley Sanderson, Earl of **Scarborough**.
 Sackville Tufton, Earl of **Thanet**.
 George Montagu, Duke of **Manchester**.

CCCLXXI.

DECEMBER 15, 1775.

The second reading of the American prohibitory Bill, 16 Geo. III, cap. 5, was taken in the House of Commons on the 1st of December. The House went into Committee on the 5th, and a motion 'that the Chairman leave the chair' was negatived by 34 to 126. It was passed on the 11th of December by 112 to 16, was sent to the Lords, read a first time on the 12th of December, and a second on the 15th of December, when the negative was moved by the Duke of Manchester. But the committal was carried by 78 to 19. It received the royal assent on the 22nd of December. It prohibits all trade and intercourse with New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the three lower counties in Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, and repeals the Boston port Act, and the Acts of the last Session for restraining the trade and commerce of the colonies. The following protest was inserted against going into committee.

1st, Because this Bill, by considering the colonies in America as

a foreign nation, and declaring war on them in that character, has a direct tendency to effect an entire and (we fear) permanent separation between the two capital parts of this empire. It is new to behold a nation making a separation of its parts by a law, in hopes of re-uniting them by a treaty. The sovereign power has hitherto always regarded rebellion as the criminal act of individuals, and not the hostility of any great collective body of the community. The framers of this Bill admit the principle in its full force; although by all the provisions they everywhere contradict it; for whilst the clauses of the Bill consign all to punishment, the preamble only declares that many are guilty; the legislature choosing to be considered rather as unjust to particulars, than confess itself to be universally odious. The English on both sides of the ocean are now taught, by Act of Parliament, to look on themselves as separate nations, nations susceptible of general hostility, and proper parties for mutual declarations of war, and treaties of peace. We are by this Act preparing their minds for that independence which we charge them with affecting; whilst we drive them to the necessity of it by repeated injuries.

2ndly, Because this Bill enables and encourages the navy of England to make an indiscriminate prey of the property of English subjects trading to or from the colonies (even of the ships which lie quiet in the American ports), without regarding whether that property belongs to friends or enemies; to the dutiful or to the disobedient. This plan of promiscuous rapine (unworthy of the wisdom and decorum of government) must complete what yet remains to be completed of the union in North America against the authority of Parliament. Parliament, in this Bill, seems much more inclined to distress, than able or willing to protect. In North America the refractory and submissive may be blended together. In the West Indies all are innocent. But all are doomed to a much more severe and much more certain punishment than falls upon the most guilty in North America. The whole accommodation, if not the immediate subsistence, of the West India islands, depends on a commercial connection with the continent, from which, by this Bill, they are expressly restrained. One of the chief and much the most plausible of the complaints made last year against the North American colonies, was a resolution on their part to withhold supply from the sugar plantations. But this year we

have made ourselves to adopt and sanctify that very conduct which we had painted to the world in such odious colours. It must appear as if this Bill was purposely made against the West Indies; and lest the people of the united colonies might return to sentiments of fraternal affection, or from motives of self-interest, or from impatience of so hard a restraint, should disobey or elude the orders of the Congress, and afford relief to our innocent planters in the West Indies, it seems as if an Act of the British Parliament came in aid of that authority, and provided that no supply whatsoever shall be carried to the West Indies contrary to the resolution of the Congress.

3rdly, Because this Bill greatly exceeds in violence the pattern of injustice which it seems to follow. In some respects the prohibition of the Congress materially differed from the prohibition of this Bill. Theirs was not immediate. Time was given to the West Indies for supply, both from America and other places. No confiscations were made. We, on the other hand, have permitted the trade from America, as long as it was necessary to save ourselves from famine, and to enable the colonists to pay their debts. This supply they have made plentifully, and many of these debts they have discharged most honourably. In return for this, to us useful and honourable behaviour, Ministry abusing the bounty of Providence on the first restoration of domestic plenty, has fabricated a Bill for seizing American vessels now trading under the faith of an Act of Parliament; no ship of theirs being suffered to return to its own country, either from hence, or from the West Indies.

4thly, Because the Bill, not satisfied with making predatory war upon the trade of the colonies, thinks it necessary to stimulate particular avarice and rapacity to an activity in such service, by rendering captures of North American vessels and goods the property of the captors. This regulation is now, for the first time by any regular authority in this Kingdom, to be adopted in a civil contention. We consider this method of holding out the spoil of their fellow-citizens for the reward of alacrity in civil wars, as a source of the most dangerous corruption that can be conceived; in the first instance to our navy, and in its consequence to our army. A number of bold enterprising men, trained to the profession of arms, with fortunes to make, and promotion to be obtained, are naturally lovers of war. When they have once tasted of emoluments from domestic spoil, they will no longer look on the

commerce of England as an object of protection, but of plunder. They will see the prosperous state of peaceful domestic industry, not with pleasure, but with envy. They will be taught to wish for those lucrative civil commotions, which they will always have the means of provoking. Our soldiers in the land service will see no reason for their being distinguished from the marine; and they will call for the plunder of English trading towns, when they see that the seamen have been indulged in the plunder of English trading ships. It never can be safe for a state to hold out an interest in disturbing it, to those who have the sword in their hand. The greatest republic of which history gives us any knowledge, was subverted by this licence of domestic plunder. We are perfectly assured, that the navy of England wants no such unnatural and impious encouragement towards the performance of any duty which their known public spirit, and yet uncorrupted honour, may make it fit for them to perform. And it is no less on theirs, than on the public account, a matter of the most serious affliction to us, that a service always looked upon (and hitherto most justly), not only without fear or jealousy, but with the most partial affection in every part of this empire, should be unnecessarily exposed to the lasting odium, which must attend those who are enriched from the spoils of citizens, amongst whom they may be obliged to spend their lives, and form their connexions. Civil wars (when they must be made) should be made in such a manner as not to render the return to peace and cordiality impracticable. If the spoil ordered by this Act had been left in the Crown, the Crown might use it as an encouragement for a return to obedience, and as a means of future peace. It is now only a provocation, through despair and resentment, to perpetual hostility. We cannot possibly discern how any necessary operation of war is strengthened by this disgrace of legislature. But if the arms now used should succeed so as to enforce a temporary and reluctant obedience, we see but too well, that this Bill will leave such a sting in the minds of the colonists, as to render our government there hated and suspected, and therefore for ever precarious.

5thly, Because this Bill, by anticipating all legal judgment of the offences of those whose goods are forfeited, overturns one of the most excellent and profoundly considered parts of that fundamental law, the Declaration of Rights, which declares, 'that all grants of

finances and forfeitures of particular persons, before conviction, are illegal and void.' This provision is expressly made, lest rapacious ministers, scenting confiscation, or rapacious soldiers, allured by the lust of plunder, should be induced to forge or provoke plots and rebellions, in order to enrich themselves out of the public disorders.

6thly, Because very extensive commercial property of British subjects (implicated by the nature of commercial intercourse with that of innocent Englishmen residing here) is to be taken out of the equitable jurisdiction of the common law of England, and from that inestimable birthright of the subjects of this Kingdom, a trial by jury, and carried to the court of Admiralty, to be tried by a single judge, on the rules of an arbitrary foreign law.

7thly, Because the whole scheme of this predatory war for private lucre, is put under the arbitrary direction of certain commissioners to us unknown, even by name; who have power to give such continuance to the ravages authorized by this Bill, as their arbitrary will shall suggest; to pardon, or except from pardon, any number or description of persons, and with such exceptions as they shall see fit, without any other rule than their own private opinion, fancy, caprice, favour, or resentment; and without any other rule to open or keep shut any colony, province, county, town, district, or place. We are of opinion, that the power left to the said commissioners is perfectly unjustifiable and unconstitutional. It has, besides, a tendency to create the most shameful and mischievous monopolies. The power given to the Admiralty and to the West India governors, to license ships, is of the same nature. If such monopolies and jobs should not arise from such powers, it is no fault of this Bill, which, as if it had these purposes in view, has taken special care to provide as strong a temptation as human nature, set above law and restraint, and furnished with every facility to corruption, can possibly be exposed to.

8thly, Because we know nothing of the business of these commissioners, further than the above arbitrary discretion with regard to pardons. Rumour gives out, that they are to have a power to treat with the Americans for a redress of their grievances. Of this, however, neither the Speech from the Throne nor the Bill have given the least intimation; although, if the commissioners treat on this subject at all, Acts and powers of Parliament being the matter of complaint, the commissioners ought to derive some

previous authority from Parliament in order to give weight and efficacy to their negotiations, and to preserve some appearance of dignity in ourselves. It is hardly proper, that Parliament should appear in no other light than as the instrument of penal restrictions, attainder, penalties, and confiscations; as the maker of menacing addresses, and the rejecter of dutiful petitions. It is hardly decent to shew ourselves fierce and inflexible here, but to be satisfied with permitting unknown persons whom ministers shall choose in future to appoint, to dispose, in America, of powers and Acts of Parliament at their pleasure; leaving us, first, the odium of rejecting reasonable requests, and afterwards the disgrace of ratifying shameful concessions.

9thly, Because we reject, with indignation, that clause of this Bill which, by a refinement in tyranny, and in a sentence worse than death, obliges the unhappy men who shall be made captives in this predatory war, to bear arms against their families, kindred, friends, and country; and after being plundered themselves, to become accomplices in plundering their brethren. If there exists a doubt whether to justify the infliction of capital punishment on desertion, it should be necessary to prove that a seaman was a pressed man or a volunteer. The object of this clause is to deprive the American seaman of the plea of his being a pressed man, as it declares, 'that he is to be considered, to all intents and purposes, as having entered voluntarily into the service.' By this clause, not only common seamen but masters of vessels are, without regard to age or circumstances, or condition, to be ignominiously turned before the mast, and subjected to the austere discipline of the boatswain. Persons, in that subordinate station, not being animated with the liberal and ingenuous spirit which distinguishes officers in the navy, and taught to consider these forced volunteers as rebels, will be but too apt to aggravate the miseries of captivity by insult and outrage. These prisoners, among the comrades they are obliged to live and serve with, may, very probably, be often forced to behold the spoils of their honest industry, and the natural support of their sober families, squandered in riot and profligate debauchery before their faces. This we look upon as the last degree of wretchedness and indignity to which human nature can be subjected. This cruelty, unknown to the most savage nations, is to be practised by Englishmen on

Englishmen. It has been said in Parliament, that the pay the prisoners are to receive is to be considered as a full compensation for the principles they are obliged to violate. We do not envy any one that sentiment. An attempt is also made to justify it by the supposed right of pressing; we cannot conceive that the burthens of subjection ought ever to be imposed where the protection belonging to it is denied; or that a man can ever be despoiled of his goods as a foreign enemy, and at the same time obliged to serve the state as a citizen. This compulsion we have never heard to be practised on any prisoners in war or in rebellion; nor do we know any example of it, except among pirates, the outlaws and enemies of human society.

10thly, Because a Bill so unprecedented in its nature, and so important in its consequences, is brought in at a time of year, when, by experience, it is known, that most of the independent members of both Houses are called away by their domestic affairs, and when few but those in the immediate pay of the court, and attending on their employments, are in town. This we conceive to be done in order to impress the public with a delusive idea, that those measures are agreeable to greater numbers in both Houses, than in reality they are.

The only part of this Bill which we approve, is the repeal of the unjust and improvident Acts which have produced all the evil effects we had foreseen, and none of the good which was pretended as the ground for making them; Acts, as unfit for, as incapable of, execution. But, to our inexpressible grief, and to the disgrace of the public counsels of this Kingdom, Ministers, untaught by misfortunes, and unchecked by disappointments, at the very instant they are obliged to demolish the old fabric of their oppression, as useless and mischievous, are building up another on nearly the same model, and with the same materials, adding only something more of that injustice and violence which have always proved mischievous in proportion as they have been augmented.

George Neville, Lord **Abergavenny**.

Charles Watson Wentworth, Marquis of **Rockingham**.

George Montagu, Duke of **Manchester**.

Willoughby Bertie, Earl of **Abingdon**.

Charles Lennox, Duke of **Richmond**.

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

William Wentworth Fitzwilliam, Earl Fitzwilliam.
Henry Frederic Howe, Lord Chedworth.

CCCLXXII.

APRIL 16, 1777.

On the 9th of April, the King sent a message to the Commons, stating that to his concern, he finds the debts incurred on behalf of his household and civil government to amount to more than £600,000, and requesting at once a discharge of the debt, and a further provision for the household, and the honour and dignity of the Crown. It was ordered that the message should be referred to a committee of supply, and when it came before the House of Commons on the 16th of April, Lord John Cavendish moved that the order should be discharged. At the time, the allowance to the Crown was £800,000, and North proposed to pay the debts and make it up to £900,000. Wilkes boldly said that it was understood the debts had been incurred by bribes given to members of Parliament. The motion was carried by 281 to 114. Only one Scotch member voted with the minority, Mr. Dempster, the member for Dundee. A division was taken on the second resolution, that raising the annual grant to £900,000, but the vote was carried by 231 to 109. The address in the Lords was moved by Lord Derby and seconded by Lord Onslow, and the amendment, which is embodied in the subjoined protest, by Lord Rockingham. The address was carried by 96 to 20. For the debate in both Houses, see *Parliamentary History*, vol. xix, pp. 103-187. The speech made by Sir Fletcher Norton, Speaker of the House of Commons, in presenting the Bill to the King on the 7th of May is well known, and is found, given as he published it, in *Parliamentary History*, vol. xix, p. 213. It was printed by order of the House.—See George III's correspondence with Lord North, vol. ii, p. 64.

For the reasons contained in the amendment proposed and rejected, viz. in lieu of the above address, to substitute the following:

To assure his Majesty of the inviolable affection and loyalty of this House, and that it is with the sincerest affliction we find our duty to his Majesty, and to our country, entirely incompatible with our compliance with the request made to us in his Majesty's name.

That at a time when the increase of public debt, attended with a decrease of the British empire, manifestly required the utmost economy in the management of the revenues of the Crown, we cannot behold, without astonishment and indignation, a profusion in your Majesty's Ministers, which the greatest prosperity of our affairs could scarcely excuse.

That this House, with the most zealous devotion to your Majesty's true interests, begs leave to represent to your Majesty, that we humbly apprehend the clear revenue of £800,000 a year, which supported the government and court of your Majesty's grandfather, of happy memory, in great authority and magnificence, is fully sufficient (if managed by your Majesty's servants with the same integrity and economy), to maintain also the honour and dignity of your Majesty's Crown, in that reverence, in which we wish, as much at least as those who have squandered away your revenues, to see it always supported. Parliament has already, in consideration (we suppose) of some expenses at the beginning of your Majesty's reign, discharged the debts and incumbrances on the civil list to a very great amount. Again to exceed the revenue granted by Parliament, without its authority, and to abuse its indulgence in paying one debt, by contracting, in so short a time, another and a greater, is, on the first view, a criminal act. Your Majesty's Ministers ought to have laid some matter before this House, tending to shew that your Majesty's government could not be reputably supported on the provision made by Parliament; whereas they have only laid before us the heads on which they have exceeded, without anything which can tend either to justify or excuse the excess; and the only reason given to us for paying that debt is, that your Majesty's Ministers have incurred it.

With regard to the further increase of your Majesty's Civil List revenues, we must decline any concurrence herein, not solely from motives of economy (though at no time more strictly required), but from a dread also of the effect of such an augmentation on the honour and integrity of Parliament, by vesting such large sums, without account, in the hands of Ministers. When an opinion is known to prevail, and which we have no means of contradicting, that your Majesty's Civil List revenues are employed in creating an undue influence in Parliament, it would be extremely unbecoming of us to vote, without manifest reason, great sums of money out of the property of your Majesty's subjects which are supposed to be applied to our private emolument. It is our duty to attend to the reputation of Parliament. And we beg leave to represent to your Majesty, that a further increase of the present overgrown influence of the Crown, would be a treacherous gift from Parliament, even to the Crown itself; as it will enable the Ministers to carry on those

delusive systems which have been fatally adopted; and which, if pursued, must lead to the utter ruin, as they have already produced the distraction, of this once great empire.

Willoughby Bertie, Earl of Abingdon.
 George Neville, Lord Abergavenny.
 Andrew Archer, Lord Archer.
 Thomas King, Lord King.
 Sackville Tufton, Earl of Thanet.
 George Byng, Viscount Torrington.
 George Harry Grey, Earl of Stamford.
 Thomas Howard, Earl of Effingham.
 William Henry Cavendish Bentinck, Duke of Portland.
 Charles Lennox, Duke of Richmond.
 Charles Watson Wentworth, Marquis of Rockingham.
 William Wentworth Fitzwilliam, Earl Fitzwilliam.
 William Cavendish, Duke of Devonshire.
 George Montagu, Duke of Manchester.

CCCLXXIII.

MAY 1, 1777.

The Bill for the better support of his Majesty's household and of the honour and dignity of the Crown of Great Britain, went into committee on the 1st of May.

The following protest was inserted.

Because though I admit and zealously contend, that the splendour and dignity of the Crown of Great Britain and the credit of the royal household, ought, for his Majesty's personal satisfaction, no less than for the honour of the nation, to be maintained by liberal grants of Parliament (liberal beyond the charge of parsimony, or a minute calculation of the demands of government), yet when no consideration is had, and no account whatever given in, of various productive funds of which his Majesty's servants are in the receipt, and which never are accounted for in Parliament, I must insist, that all calculations of a deficiency in the assumed sum of £800,000 only, are fallacious and absurd.

Because these funds produce either the sum of £78,000, or more or less. If they produce that sum, the produce more than liquidates the present stated debt; if they produce less, but yet produce something, the accounts upon the table cannot be true, for such produce would then either have been accounted for in diminution

of this debt, or such produce is still in hand, and the means of discharging such debt remain; or there has been some secret expenditure to which it has been applied, and which Administration have not thought fit to mention. If they produce (as I cannot but think they do produce) considerably more, it surely rests on Administration to shew the application, rather than becomes the credulity of Parliament to accept these accounts as complete, or its generosity to supply with such readiness, and consequently encourage the wantonness of their profusion as to the amount, and perhaps their criminality in destination of these sums.

And because when, exclusive of the enormous sums stated to be lodged with certain persons, who are members of the House of Commons, for secret and special services (words calculated to perplex, and not inform), the extravagant amount of salaries and acknowledged pensions (to which parliamentary jealousy claims a right of making a large addition, on account of the general belief, amounting with many persons to an internal conviction, of considerable disbursements for secret and unacknowledged purposes), is considered, I hold it my duty as a member of the legislature, to withhold the additional means, afforded by this Bill, of corrupting the integrity of Parliament.

Jacob Pleydell Bouverie, Earl of Radnor.

CCCLXXIV.

NOVEMBER 20, 1777.

The Speech from the Crown declared the King's resolve to vigorously carry on the war with the American colonies. It spoke also of the pacific disposition of foreign powers, though in reality no little alarm was felt at the attitude of France. The capture of Philadelphia occurred this year. An amendment was proposed to the address, urging the King to take steps towards bringing about peace. The amendment was rejected by 97 to 28.

The following protest was inserted.

Because this address is a repetition of, or rather an improvement on the fulsome adulation offered, and the blind engagements entered into by the House on former occasions, relative to this unhappy civil war.

Thomas Howard, Earl of Effingham.

Charles Lennox, Duke of Richmond.

CCCLXXV.

MARCH 9, 1778.

In order to obviate the hostility of the American people, possibly in order to divide their counsels, Lord North brought in three conciliatory Bills after the Christmas recess, and on the 17th of February. They were, an Act to enable the King to appoint commissioners to treat with the colonies, a declaratory Act, which might remove all doubts as to the liability of the colonies to taxation, and a third, repealing the Act for regulating the government of Massachusetts Bay. The news of the surrender of Burgoyne came on the 2nd of December, 1777, and there was an immediate cry for peace. The independence of the United States was acknowledged by France on the 6th of February, when a treaty of commerce and alliance was signed.—See George III's Letters to Lord North, vol. ii, p. 109, sqq. The debate on the third reading of these Bills took place in the Lords on the 9th of March.—Parliamentary History, vol. xix, pp. 834–867. There was no division thereon, and they received the royal assent on the 11th of March.

The following protest is inserted.

Because the terms now offered by the above Bills to America, whilst sufficient to shew the very humiliating state to which the dignity and boasted supremacy of Parliament are reduced, are insufficient to the great end of conciliation proposed by them, and for the following reasons :

1st, Because (as to the first Bill) a declaration not to impose taxation on America, is, in the very suspension of the exercise, a confirmation of the right ; for, without the right, the declaration is void : whereas America denies the right, and upon that ground resists the exercise. If the right, then, be reserved, the object of resistance remains : and so remaining, may be exercised whenever any future Quixote Ministry, in example of their predecessors, shall be led to convert history into romance. But it is objected, 'that a right cannot be surrendered': so neither, if it be a constitutional right, can the exercise of it be dispensed with ; for what repels the former must equally counteract the latter. But this is no constitutional right ; on the contrary, the Constitution reprobates and disavows it. For taxation and representation are constitutionally inseparable, and America is not represented ; of course, America cannot be taxed. Whilst America, therefore, will not accept that by courtesy of Parliament, which she holds in right of the Constitution, and for the good reason, that an Act of Parliament is revocable, and the Constitution irrevocable, it follows,

that a renunciation of the right, and not the mere suspension of the exercise, was the proper object of this Bill.

2ndly, Because (as to the second Bill), the appointment of commissioners to treat with any person or persons, other than the Congress, is so glaring a manifestation of the intention of such treaty, as must necessarily occasion a circumspection in the Congress that may not be much to the ease of the commissioners themselves.

3rdly, Because, although the commissioners and the Congress be agreed, such agreement is of no effect till confirmed by Parliament; which is giving such advantage to Parliament, by knowing what Congress will do, and is of such disadvantage to Congress, by not knowing what Parliament will confirm, that the very inequality of the conditions will put a stop to accommodation.

4thly, Because, as the withdrawing of the troops would be the saving of the army (not to mention the policy of the measure upon other grounds), so the ceasing of hostilities there, will, by fatal experience, prove to be the loss of it. The remains of General Burgoyne's army are now constituting a part of the great yeomanry of America.

5thly, Because the Prohibitory Act is to be suspended under exceptions and restrictions, which exceptions and restrictions (and whilst Great Britain is under neither), intending a restraint upon the supplies of America, are neither liberal in proposal, nor probable in acceptance.

6thly, Because, among the many things to be done, the one thing needful is to be left undone. The Quebec Act is to remain without suspension. The power given to the commissioners is, 'to suspend the operation and effect of any Act or Acts of Parliament, which have passed since the 10th of February, 1763, and which relate to any of his Majesty's said colonies, provinces, or plantations in North America': but Canada is not one of the said colonies, provinces, and plantations referred to in the Bill, and therefore the commissioners have no power to suspend the operation and effect of any Act or Acts of Parliament that relate to Canada. This, then, will create a stumbling-block insurmountable at the very threshold of negotiation. For, besides the establishment of despotism and popery in Canada, under which America will never sit quiet, this horrid and unconstitutional Act, by

extending the boundaries of its province, has invaded the property, and removed the landmarks of its neighbouring colonies; a violation that justice should redress, if America were even silent thereupon.

7thly, Because power is given to the commissioners to grant pardons to people who not only say they have been guilty of no offences, but the very Bills themselves say the same thing for them: for, besides acceding to the claims of America, the Americans are styled his Majesty's faithful subjects; and to pardon faithful subjects is an act of supererogation, if not of absurdity.

8thly, Because the appointment of governors being now in the hands of the Congress, an attempt to supersede that power, before it be known whether the terms offered be accepted, looks more like having an eye to that Machiavelian maxim, of 'divide et impera,' than to the more solid benefits of a general union.

Lastly, Because concession now, like a death-bed repentance, comes at the last hour; and being, as avowedly, the effect of necessity, and not of principle, we are left under all the fears and apprehensions of dissolution, and without the hope of salvation but in the magnanimity of America; a magnanimity, however, which we have already experienced, and which (by insisting on the justice of removing from his Majesty's councils those evil ministers who have trodden on the liberties, and, with savage cruelty, spilled the blood of America, and, by placing in their room the friends of humanity and of the Constitution) may restore us to that health and strength, and again to that peace and empire, which was once the boast of this country, and the terror of the world beside.

Willoughby Bertie, Earl of Abingdon.

CCCLXXVI.

APRIL 8, 1778.

On the 7th of April, the Duke of Richmond brought forward his motion on the state of the nation, which may be found in Parliamentary History, vol. xix, p. 1014. The motion counselled the immediate withdrawal of the fleets and armies from the thirteen provinces, and called for censure on the Ministry. The address was opposed by Lord Weymouth. Immediately afterwards Lord Chatham rose, and made his last speech in the House. The Duke of Richmond replied; and when Chatham tried to speak, he fell into a swoon, and was carried to the Prince's Chamber

close by. The debate was resumed the next day, and the motion was rejected by 50 to 33. Immediately afterwards, Lord Abingdon moved that the minority should wait on the King, and tell him their judgment; a proposal which was assented to by the Duke of Richmond, but not carried into execution. We learn from George III's letters that at this time North intended to resign.

The following protest is entered.

Because we think the rejection of the proposed address at this time may appear to indicate in this House a desire of continuing that plan of ignorance, concealment, deceit and delusion, by which the sovereign and his people have been already brought into so many and so grievous calamities. We hold it absolutely necessary that both sovereign and people should be undeceived; that they should be distinctly and authentically made acquainted with that state of their affairs, which is faithfully represented in the proposed address, at a time when our existence as a nation may depend upon our conceiving a just idea of our real situation, and upon our wisdom in making a proper use of it.

Charles Lennox, Duke of **Richmond**.

Thomas Howard, Earl of **Effingham**.

George Neville, Lord **Abergavenny**.

Jacob Pleydell Bouverie, Earl of **Radnor**.

Sackville Tufton, Earl of **Thanet**.

Charles Watson Wentworth, Marquis of **Rockingham**.

Willoughby Bertie, Earl of **Abingdon**.

George Harry Grey, Earl of **Stamford**.

George Simon Harcourt, Earl **Harcourt**.

George Montagu, Duke of **Manchester**.

George Townshend, Lord **De Ferrars**.

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

William Craven, Lord **Craven**.

Jonathan Shipley, Bishop of **St. Asaph**.

John Spencer, Earl **Spencer**.

William Cavendish, Duke of **Devonshire**.

Edward Devereux, Viscount **Hereford**.

Harry Paulet, Duke of **Bolton**.

Edmund Law, Bishop of **Carlisle**.

William Henry Cavendish Bentinck, Duke of **Portland**.

CCCLXXVII.

JUNE 2, 1778.

Lord Chatham died on the 11th of May, 1778, and at the sitting of the Commons the same evening, Colonel Barrè moved, that the King be asked

to give directions that the remains of this statesman should be interred at the public charge. Mr. Dunning added that a monument should also be erected to him in Westminster Abbey. The motion and addition were carried unanimously on the 13th of May. Mr. T. Townshend moved an address to the King, that he would be pleased to bestow some signal and lasting mark of favour on his family, which was seconded by Lord Nugent. This was also carried unanimously; and the King recommended the payment of Chatham's debts, and the settlement of an annuity of £4000 a year out of the Civil List on the future holders of the title (the title expired in 1835). The City of London petitioned that the Earl should be buried in St. Paul's; a request which was met by the criticisms of Mr. Rigby. In the Lords the motion of Lord Shelburne that the Peers attend the funeral in a body was (on the 13th of May) lost by 20 to 19. On the third reading of the Chatham Annuity Bill, it was opposed by the Duke of Chandos, on the ground of economy and precedent, by the Lord Chancellor and Lord Ravensworth, and was defended by Chatham's friends.

The third reading was carried by 42 to 11. The debate is to be found in Parliamentary History, vol. xix, p. 1234.

The following protest was entered,

1st, Because we cannot agree to such an unwarrantable lavishing away of the public money at a time when the nation groans under a heavy load of debts, and is engaged in a dangerous and expensive war.

2ndly, Because we fear that this Act may, in after times, be made use of as a precedent for factious purposes, and to the enriching of private families at the public expense.

Henry Bathurst, Earl Bathurst (Lord Chancellor).

William Markham, Archbishop of York.

James Brydges, Duke of Chandos.

Henry Bayley Paget, Lord Paget.

CCCLXXVIII.

DECEMBER 7, 1778.

The commissioners appointed under 18 George III, cap. 13, for treating with the North American colonies (the Earl of Carlisle, Lord Howe, Sir W. Howe, Mr. Johnstone, and Mr. Eden), failed to make any impression on the American Congress. They therefore determined to return to England. But before they left America, Lord Carlisle, Sir Henry Clinton (Howe's successor in command of the forces), and Mr. Eden issued a proclamation or manifesto on the 3rd of October, in which it was stated that 'hitherto the hopes of reunion had checked the extremes of war, that the contest must change, and that if the British colonies were to become an accession to France, the laws of self-preservation must direct Great

Britain to render the accession of as little avail as possible to the enemy.' See the clause in Parliamentary History, vol. xix, p. 1388. It was commented on in a motion of Mr. Coke of Norfolk, of the 4th of December, which was negatived by 209 to 123. The debate in the Lords was commenced by Lord Rockingham, who moved an address similar to that of Mr. Coke. It was negatived by 71 to 37, and the following protest was entered.

1st, Because the public law of nations, in affirmance of the dictates of nature and the precepts of revealed religion, forbids us to resort to the extremes of war upon our own opinion of their expediency, or in any case to carry on war for the purpose of desolation. We know that the rights of war are odious, and instead of being extended upon loose constructions and speculations of danger, ought to be bound up and limited by all the restraints of the most rigorous construction. We are shocked to see the first law of nature, self-preservation, perverted and abused into a principle destructive of all other laws; and a rule laid down by which our own safety is rendered incompatible with the prosperity of mankind. Those objects of war which cannot be compassed by fair and honourable hostility, ought not to be compassed at all; an end that has no means but such as are unlawful, is an unlawful end. The Manifesto expressly founds the change it announces, from a qualified and mitigated war, to a war of extremity and desolation, on the certainty that the provinces must be independent, and must become an accession to the strength of an enemy. In the midst of the calamities by which our loss of empire has been preceded and accompanied, in the midst of our apprehensions for the farther calamities which impend over us, it is a matter of fresh grief and accumulated shame, to see from a commission under the Great Seal of this Kingdom, a declaration for desolating a vast continent, solely because we had not the wisdom to retain, or the power to subdue it.

2ndly, Because the avowal of a deliberate purpose of violating the Law of Nations, must give an alarm to every state in Europe. All commonwealths have a concern in that law, and are its natural avengers. At this time, surrounded by enemies, and destitute of all allies, it is not necessary to sharpen and embitter the hostility of declared foes, or to provoke the enmity of neutral states. We trust that by the natural strength of this Kingdom we are secured from a foreign conquest, but no nation is secured from the invasion and incursions of enemies; and it seems to us the height of frenzy

as well as wickedness, to expose this country to cruel depredations and other outrages too shocking to mention (but which are all contained in the idea of the extremes of war and desolation) by establishing a false, shameful and pernicious maxim, that where we have no interest to preserve, we are called upon by necessity to destroy. This Kingdom has long enjoyed a profound internal peace, and has flourished above all others, in the arts and enjoyments of that happy state. It has been the admiration of the world for its cultivation and its plenty; for the comforts of the poor, the splendour of the rich, and the content and prosperity of all. This situation of safety may be attributed to the greatness of our power: it is more becoming and more true that we ought to attribute that safety, and the power which procured it, to the ancient justice, honour, humanity and generosity of this Kingdom, which brought down the blessing of Providence on a people, who made their prosperity a benefit to the world, and interested all nations in their fortune; whose example of mildness and benignity at once humanised others, and rendered itself inviolable. In departing from those solid principles, and vainly trusting to the fragility of human force, and to the efficacy of arms rendered impotent by their perversion, we lay down principles and furnish examples of the most atrocious barbarity. We are to dread that all our power, peace and opulence should vanish like a dream, and that the cruelties which we think safe to exercise, because their immediate object is remote, be brought to the coasts, perhaps to the bosom of this Kingdom.

3rdly, Because if the explanation given in debate, be expressive of the true sense of the article in the Manifesto, such explanation ought to be made, and by as high authority as that under which the exceptionable article was originally published. The natural and obvious sense indicates that the extremes of war had hitherto been checked, that his Majesty's generals had hitherto forbore (upon principles of benignity and policy) to desolate the country; but that the whole nature and future conduct of the war must be changed, in order to render the American accession of as little avail to France as possible. This, in our apprehensions, conveys a menace of carrying the war to extremes and to desolation, or it means nothing. And as some speeches in the House (however palliated) and as some acts of singular cruelty lately exercised, are

perfectly conformable to the apparent ideas in the Manifesto, it becomes the more necessary for the honour and safety of this nation, that this explanation should be made. As it is refused, we have only to clear ourselves to our consciences, to our country, to our neighbours, and to every individual who may suffer in consequence of this atrocious menace, of all part in the guilt or in the evils that may become its punishment. And we choose to draw ourselves out, and to distinguish ourselves to posterity, as not being the first to renew, to approve, or to tolerate the return of that ferocity and barbarism in war, which a beneficent religion and enlightened manners, and true military honour, had for a long time banished from the Christian world.

Charles Pratt, Lord **Camden**.

William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

George Neville, Lord **Abergavenny**.

William Cavendish, Duke of **Devonshire**.

William Henry Cavendish Bentinck, Duke of **Portland**.

Harry Paulet, Duke of **Bolton**.

Willoughby Bertie, Earl of **Abingdon**.

Edward Smith Stanley, Earl of **Derby**.

George William Coventry, Earl of **Coventry**.

Thomas Foley, Lord **Foley**.

Edward Hussey Montagu, Lord **Beaulieu**.

Jacob Pleydell Bouverie, Earl of **Radnor**.

Augustus Henry Fitzroy, Duke of **Grafton**.

George Montagu, Duke of **Manchester**.

Philip Stanhope, Earl **Stanhope**.

John Spencer, Earl **Spencer**.

William Petty, Lord **Wycombe** (Earl of Shelburne).

George O'Brien Wyndham, Earl of **Egremont**.

William Craven, Lord **Craven**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

Charles Watson Wentworth, Marquis of **Rockingham**.

George Townshend, Lord **De Ferrars**.

Richard Lumley Sanderson, Earl of **Scarborough**.

George Simon Harcourt, Earl **Harcourt**.

Jonathan Shipley, Bishop of **St. Asaph**.

Matthew Fortescue, Lord **Fortescue**.

Charles Bennet, Earl of **Tankerville**.

Robert Shirley, Earl **Ferrers**.

George James Cholmondeley, Earl **Cholmondeley**.

Thomas Howard, Earl of **Effingham**.

Charles Lennox, Duke of **Richmond**.

CCCLXXIX, CCCLXXX.

APRIL 23, 1779.

On the 19th of April, Fox made a motion in the House of Commons for the removal of Lord Sandwich from the Admiralty. *Parliamentary History*, vol. xx, p. 372. The motion was negatived by 221 to 118. On the 23rd of April, Lord Bristol made a similar motion in the Lords. *Parliamentary History*, vol. xx, p. 427. The motion was lost by 78 to 39. See Stanhope's *History*, chap. lviii.

The following protests were entered.

Because, as it is highly becoming this great Council of the nation to address his Majesty for the removal of any minister for neglect of duty or incapacity, in order to prevent public detriment; so we conceive the notoriety of facts in this debate sufficiently warrants, and the present alarming situation of public affairs loudly calls for this interposition.

George Townshend, Lord **De Ferrars**.
 Robert Shirley, Earl **Ferrers**.
 Willoughby Bertie, Earl of **Abingdon**.
 Henry Herbert, Earl of **Pembroke and Montgomery**.
 George Montagu, Duke of **Manchester**.
 William Craven, Lord **Craven**.
 Charles Watson Wentworth, Marquis of **Rockingham**.
 George Simon Harcourt, Earl **Harcourt**.
 William Courtenay, Viscount **Courtenay**.
 Augustus John Hervey, Earl of **Bristol**.
 Augustus Henry Fitzroy, Duke of **Grafton**.
 Thomas King, Lord **King**.
 William Petty, Lord **Wycombe** (Earl of Shelburne).
 Matthew Fortescue, Lord **Fortescue**.
 John Spencer, Earl **Spencer**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 Charles Lennox, Duke of **Richmond**.
 Harry Paulet, Duke of **Bolton**.
 Thomas Howard, Earl of **Effingham**.
 William Henry Cavendish Bentinck, Duke of **Portland**.
 George Harry Grey, Earl of **Stamford**.
 Charles Pratt, Lord **Camden**.
 Richard Lumley Sanderson, Earl of **Scarborough**.
 George James Cholmondeley, Earl **Cholmondeley**.
 Jacob Pleydell Bouverie, Earl of **Radnor**.

Because having made the motion alluded to in the above dissent, I think it incumbent upon me to let posterity know the particular grounds I made that motion upon.

1st, Because, since the year 1771, there has been £6,917,827 5s. 0½d. granted for naval purposes, more than was granted in an equal number of years, between 1751 and 1759, for the use of the navy, although we had been four years at war with France within that period.

2ndly, Because the navy of England appears to be reduced from what it was in the year 1771, when the present First Lord of the Admiralty succeeded to the head of that Board, notwithstanding the immense sums granted for its support and increase since that time.

3rdly, Because it appears, after having received such repeated intelligence as hath been acknowledged to have been received from the 3rd of January, 1778, to the 27th of April following, of the equipment and progress of the Toulon squadron, to their sailing on the 13th of April, 1778; the not sending a squadron into the Mediterranean, to watch the motions of, and endeavour to intercept the said French squadron from passing the Straits, nor sending any reinforcement to Vice-Admiral Lord Howe, or even despatching Vice-Admiral Byron till the 9th of June, 1778, was exposing the fleet, as well as army of England then employed in America, to a very superior force of France.

4thly, Because it appears the sending of Admiral Keppel off Brest, the 13th of June, with twenty sail of the line, when the Lords Commissioners of the Admiralty knew, or ought to have known, that the French fleet then actually at Brest, and fitting for sea, consisted of thirty-two ships of the line, besides many heavy frigates, might have been productive at that time of the most fatal consequences to the only considerable naval force this Kingdom had then ready for its protection, but also to the trade, and even the ports of these Kingdoms. And if Admiral Keppel had remained with his twenty ships of the line off Brest, he must with those twenty ships have engaged the French fleet of thirty sail of the line, who sailed on the 8th of July, as Admiral Keppel could not get the reinforcement even of four ships of the line to join him till the 9th of July, although he was then at St. Helen's for that purpose.

5thly, Because it appears we lost that valuable Island of Dominica for want of timely reinforcement, and proper instructions being sent to Admiral Barrington.

6thly, Because for want of the smallest naval force being sent to the Coast of Africa, we have also lost that valuable station of Senegal, which might in time, with proper attention, have opened new markets for our drooping manufactures.

7thly, Because it appears that the Admiralty, without any deliberation whatsoever, having so precipitately ordered a court-martial upon a commander-in-chief of great rank and character, which Admiral Keppel bears in his Majesty's fleet, was frustrating the salutary intentions of that discretionary power, lodged by the constitution in the Lords Commissioners for executing the office of Lord High Admiral of Great Britain, whereby all malicious and ill-founded charges (by whomsoever exhibited) may be avoided, and the union and discipline of the service not interrupted.

Augustus John Hervey, Earl of Bristol.

CCCLXXXI.

APRIL 28, 1779.

Amelia Darcy, Baroness Conyers, daughter and sole heiress of Robert Darcy, Earl of Holderness, was married to Lord Osborne, eldest son of the Duke of Leeds, on the 29th of November, 1773. In 1779 she was divorced from Lord Osborne (who had been summoned to the Upper House during his father's lifetime as Baron Osborne of Kiveton) for adultery with Admiral John Byron, the father, by his second wife, of Lord Byron, the poet. The subjoined protest appears to be levelled at the expression in the Divorce Bill 'commonly called Marquis of Carmarthen'; for it was moved, 'that it be an instruction to the Committee on the said Bill, that they do take care that no claim to any title of honour which is not of public notoriety be recognised in the said Bill.' The standing order referred to was made on the 24th of March, 1767, immediately after the Lords had adjudged the title of Lord Willoughby of Parham to Henry Willoughby.

1st, Because the recognition in a casual Bill of any title of honour, which has never been adjudged, which has never been specially ascertained, which has never been examined by a Committee of Privileges, on a reference from the Crown to this House, and which has never been regularly claimed, is novel, and may in its consequences be dangerous.

2ndly, Because it is agreeable to the law of the land, and has been the practice of this House (which the justice of the Crown in referring to this House all claims apparently well founded, has given no occasion to controvert or interrupt) for this House to

recognise those titles of honour only which are of notoriety, or of which references have been made by the Crown to the examination of this House.

3rdly, Because if this House judged it necessary to make the standing order of the 20th and 24th days of March, 1767, upon the pressure of a claim regularly referred, and on the former of those days decided by the House 'not to proceed to the hearing any claim to any title of honour until fourteen days after printed cases with proofs, &c., shall have been delivered,' it seems doubly incumbent upon us (in an instance where no such cases can be offered, and no such proofs received, and consequently where there can be no examination) not to recognise a claim inserted in a casual private Bill not referred by the Crown, and in an unprecedented manner therefore as we contend before the House.

4thly, Because though it was admitted in the debate, that such recognition is neither binding upon the House as to the validity of any claim to the same, nor any rule either solely or adjunctly by which the Keeper of the Great Seal for the time being is to govern himself in issuing any summons to Parliament, or on which any Court or person whatsoever is to act in any claim to any privilege of Peerage; yet it cannot, we conceive, be denied, that the rejection of this motion countenances at least the claim, especially when it was on the other side contended that the acceptance of the motion would cast upon it an imputation, and be an injustice to absent parties; and,

5thly, Because it was the declared intention, and would have been, as we conceive, the sole effect of the proposed instruction to prejudge, in no degree, the claim asserted in this Bill, of which we know nothing but that it is asserted.

George Townshend, Lord De Ferrars.

Jacob Pleydell Bouverie, Earl of Radnor.

CCCLXXXII.

JUNE 17, 1779.

On this day the King sent a message to the Lords informing them of the attitude which the King of Spain had taken in relation to the war with the American colonies. The Marquis d'Almodovar, Minister from Spain, had the day before delivered a manifesto to Lord Weymouth, one of the Secretaries of State, which amounted to a declaration of war, and in consequence of which, Lord Grantham, the ambassador at

Madrid, was recalled. The Lords answered the address in the usual manner. But the Duke of Richmond moved the following amendment: 'That in a moment so critical as that which now presents itself to the consideration of Parliament (the most awful this country has ever experienced), it would be deceiving his Majesty and the nation, if at the same time that we lament the fatal effect of these councils, which by dividing and wasting the force of the empire by civil wars, have incited our national enemies to take advantage of our weak and distracted condition, we were not to represent to his Majesty, that the only means of resisting the powerful combination which now threatens this country will be by a total change of that system which has involved us in our present difficulties in America, in Ireland, and at home. By such means, attended with prudent economy, and a due exertion of the forces of a free and united people, we trust that his Majesty, with the assistance of the Divine Providence, will be able to withstand all his enemies, and to restore Great Britain to its former respected and happy condition.' The amendment was rejected by 57 to 32.—See Stanhope's History, chap. lviii.

1st, Because the amendment proposed, recommending to his Majesty a change of system in the principles and conduct of the war, appears to us to be warranted by every consideration which prudence and experience can suggest, and to be called for by the extreme magnitude of the dangers which surround us. The formal surrender of all right to tax North America, proposed by the very same Ministers who, at the expense of 50,000 lives, and thirty millions of money, had for three years successively attempted to establish this claim, necessarily proves either that those principles of legislation, which they had thus asserted and thus abandoned, were unjust in themselves, or that the whole power of Great Britain, under their conduct, was unable to effectuate a reasonable dependency of its own colonies. A dilemma, dishonourable to them, and ruinous to us; and which, whatever side is taken, proves them wholly undeserving of the future confidence of a sovereign and a people, whose implicit trust in them (the largest which was ever reposed in Ministers by any king or any nation) they have abused in a manner of which the records of Parliament, and the calamities of the nation, are but too faithful witnesses.

If, with the whole force of Great Britain and Ireland, aided by the most lavish grants, assisted by 30,000 Germans, unobstructed for a long time by any foreign power, they have failed in three campaigns against the unprepared provinces of North America, we should hold ourselves unworthy of all trust, if we were willing to confide in those abilities which have totally failed in the single

contest with the colonies, for rescuing us from the united and fresh efforts of France and Spain, in addition to the successful resistance of North America.

In such a situation, a change of system appears to us to be our indispensable duty to advise. We have considered such a change as the only means of procuring that union of councils, that voluntary effort of every individual in the empire, which is necessary to be called forth in this hour of danger. We have readily concurred in a sincere offer of our lives and fortunes, in support of his Majesty against the attacks of his enemies. Those valuable pledges, both of what is our own personally, and of what belongs to our fellow citizens (which ought to be and are no less dear to us), give us a full right to claim and demand some better security for their being employed with judgment and effect, for the purposes for which we offer them, than can be derived from the opinions in which all mankind concur, of the total want of capacity of his Majesty's Ministers.

We have avoided recommending any specific measures, in order not to embarrass government in a moment of such difficulty. But we have no scruple in declaring, that whatever may be the future conduct of Great Britain with respect to America, the collecting our force at a proper time to resist and to annoy our natural rivals and ancient enemies, seems to us beyond a doubt to be proper and expedient.

2ndly, We think this advice the more seasonable, because we know the obstinate attachment of the Ministers to that unfortunate system, from the fatal predilection to which they have suffered the safety of the State to be endangered, and the naval strength of our powerful, jealous, and natural rivals to grow under their eyes, without the least attempt to interrupt it, until it had arrived at its present alarming magnitude, and hostile direction.

3rdly, This plan appears to us strongly enforced by the melancholy condition in which the misconduct and criminal neglects of the Ministers have placed us. Our best resources wasted and consumed; the British empire rent asunder; a combination of the most powerful nations formed against us, with a naval superiority both in number of ships and alacrity of preparation. And this country now, for the first time, left entirely exposed, without the aid of a single ally, we should think ourselves partakers in the

offences of the ministers, and accessories to our own destruction, if we neglected any possible means of securing a proper application of all the force we have left, from a blind confidence in persons, on whose account no nation in Europe will have any confidence in us. A manly disposition in Parliament to apply the national wisdom to the cure of the national distempers, would restore our credit and reputation abroad, and induce foreign nations to court that alliance which now they fly from; would invigorate our exertions at home, and call forth the full operation of that British spirit which has so often, under the direction of wise counsel and a protecting Providence, proved superior to numbers, but which can have no existence but from a well founded opinion, that it is to be exerted under Ministers and commanders who possess the esteem and affection of the people.

We have in vain called for some plan on which to build better hopes, or for some reason for adhering to the present system.

We have in vain requested to know what have been the circumstances of the mediation, what are the grievances complained of by the Spanish Court, in order that we may weigh the justice of that war in which we are going to engage: on which foundation alone we can rely for the protection of Providence.

We have urged the necessity of the great Council of the nation continuing to sit, that his Majesty may not be deprived of the advice of Parliament in such a difficult crisis.

All these representations have been met with a sullen and unsatisfactory silence; which gives us but too much reason to conclude, that Ministers mean to persevere in that unhappy course which has been the cause of all our misfortunes. After doing our utmost to awaken the House to a better sense of things, we take this method of clearing ourselves of the consequences which must result from the continuance of such measures.

Thomas Foley, Lord Foley.

Charles Lennox, Duke of Richmond.

George O'Brien Wyndham, Earl of Egremont.

George Montagu, Duke of Manchester.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

George Neville, Lord Abergavenny.

Edward Hussey Montagu, Lord Beaulieu.

Thomas Howard, Earl of Effingham.

Edward Smith Stanley, Earl of Derby.

Robert Shirley, Earl **Ferrers**.
 George Townshend, Lord **De Ferrars**.
 Thomas King, Lord **King**.
 George Simon Harcourt, Earl **Harcourt**.
 William Henry Cavendish Bentinck, Duke of **Portland**.
 Charles Watson Wentworth, Marquis of **Rockingham**.
 Jacob Pleydell Bouverie, Earl of **Radnor**.
 Richard Lumley Sanderson, Earl of **Scarborough**.
 George William Coventry, Earl of **Coventry**.
 William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 Edward Devereux, Viscount **Hereford**.
 William Cavendish, Duke of **Devonshire**.

CCCLXXXIII.

JUNE 29, 1779.

In order to meet the emergencies which the war with France and Spain occasioned, a new Militia Bill, considerably augmenting the land forces, and a new Navy Bill, extending the liabilities to impressment, were introduced and passed, receiving the royal assent on the 3rd of July, the last day of the session, 19 Geo. III, cap. 75, 76. The debate in the Lords may be found in Parliamentary History, vol. xx, p. 969. In order to obviate certain serious inconveniences which might occur to the coal trade, and the supply of coal to the metropolis, the Duke of Richmond moved that the Bill be recommitted. This was refused by 50 to 24, and the following protest was inserted. The Act 7 George III, cap. 7, to which allusion is made, was an indemnity to certain persons who had given effect to an order of Council dated the 26th of September, 1766, laying an embargo on ships laden with wheat or wheat flour.

Because the recommitment of this Bill, which was moved, but which the House has thought proper to negative, appeared to us to be absolutely necessary for the introduction of such alterations as might (we hope) have enabled the House to concur unanimously in the suspension of those Acts of Parliament which stand in the way of the extraordinary supply of men wanted for equipping the fleet in the present emergency. An unanimity at this time certainly desirable; which we have shewn our readiness to produce, by offering to acquiesce in measures of considerable hardships and oppression, on account of the deplorable situation to which this country is reduced; although that situation, so far from being imputable to us, is to be ascribed solely to that obstinate adherence to a system, of which we have constantly foretold the consequences we now so unhappily experience.

We wished, in the committee, not to have suffered the day of the

commencement of this Bill to remain, as it now stands, the 16th of the present month ; a period antecedent, by fourteen days, to the passing of this Bill ; whereby it has a retrospective operation, and becomes an *ex post facto* law, contrary to every principle of justice, contrary to parliamentary faith, and contrary to true policy.

We wished to have accomplished this alteration in the committee, with an act of indemnity for the avowed breach of the laws now in being. We offered to consent to this indemnity in the fullest manner that could be wished, although the proofs we repeatedly called for, of the extent of the benefit, were refused : proofs which we did not require to be attended with that degree of strictness which could render it difficult to produce them : proofs which in common cases form an essential part of the grounds on which the infractor of law is to be saved harmless, but which in the present instance we would have dispensed with in favour of the intention.

We wish by no means to discourage future ministers from extraordinary exertions, when warranted by sufficient necessity, but we think it due to the dignity of Parliament, as well as to the safety of the constitution, on all occasions, but more especially where the parliamentary faith has been so deeply pledged, to give to acts of indemnity all possible solemnity ; that they may never come to be considered as acts of right, but as acts of the last necessity ; recognizing upon the face of them the force of the law, and stating, as far as the occasion will admit, the necessity of the violation. A precedent in point stands in the statute book, the 7th of George the Third, chapter the seventh.

And we can see no reason why it has not been precisely followed.

In direct opposition to this precedent, the present Bill does not in the title, preamble, or in any part, directly mark its immediate object ; it nowhere directly recognizes the power of the law ; it nowhere states the necessity, nor the obtainable advantage which can alone justify the proceeding ; both the violation itself, and the indemnity it is to obtain, come only incidentally and indirectly under the last clause. It has been hurried through Parliament in a most uncommon manner, and establishes a new, dangerous and most alarming precedent.

Such an act of indemnity as was proposed, would have preserved the principle, that laws are sacred, that nothing less than the legislative power itself can protect those who infringe them, and that

such protection is given only in cases of extreme necessity. The objection, that a great service already obtained, by the number of men impressed since the 16th of this month, would be lost, by their being to be discharged, if the Act had no retrospect to the time when they were seized, by no means applies to the question of recommitment, which the House has rejected. It appeared in debate, that of the number of men pressed on this occasion, and which has not even been computed to be very considerable, by far the greater part had only Admiralty protections, and were not protected by the Acts now proposed to be suspended. And it was by no means impossible but that such bounties or encouragements might have been suggested in the committee, as would have induced the greater part of those who had the faith of Parliament for their security, to enter voluntarily into the service at this critical conjuncture.

Every good purpose, therefore, of this Bill, might have been obtained, and probably a general concurrence in its support produced, by simply acquiescing in a proper security for the observance of law.

But when we see this proposal refused, when we see that part of the preamble pertinaciously adhered to, which aims at establishing as a general principle, 'that whatever may be deemed an arduous and difficult conjuncture, makes it equally just and expedient to infringe law.' When we see a proposed amendment for confining that reasoning to the case which gives rise to the measure, namely, 'the present conjuncture,' rejected; we cannot but see, with a jealous eye, this and every opportunity taken of establishing some doctrine subversive of liberty, and our happy free constitution.

At such a time as this, when ministers avow their just fears of foreign invasion, which their misconduct has invited, to create fresh jealousies in respect to that liberty which is alone worth contending for, which is the best support of his Majesty's crown, and the surest foundation of that true affection of his people, on which his Majesty can alone rely for effectual and general resistance to a foreign yoke, is a degree of infatuation we cannot comprehend.

Matthew Fortescue, Lord **Fortescue**.

Charles Lennox, Duke of **Richmond**.

George Montagu, Duke of **Manchester**.

George Townshend, Lord **De Ferrars**.

Henry Paulet, Duke of **Bolton**.

Charles Watson Wentworth, Marquis of **Rockingham**.
Brownlow Bertie, Duke of **Ancaster and Kesteven**.
Richard Lumley Sanderson, Earl of **Scarborough**.
Thomas Howard, Earl of **Effingham**.
William Henry Cavendish Bentinck, Duke of **Portland**.
William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
George Neville, Lord **Abergavenny**.
William Petty, Lord **Wycombe** (Earl of Shelburne).
George James Cholmondeley, Earl **Cholmondeley**.

CCCLXXXIV.

JUNE 29, 1779.

An attempt was made to secure that protections of the Admiralty against impressment should be supplied gratis, and failed. The Bill was then read a third time and passed by 51 to 20, under the following protest.

1st, Because the acquiescence of the country in the mode of impressing seamen (tolerated only because the necessity of the measure is alleged by persons of great experience in naval matters, and hitherto is not disproved) has been, by positive acts of the legislature, intercepted and determined, with respect to the several persons' objects of this Bill, who have therefore not only all the rights of this Kingdom in common with their fellow-subjects, but the security of especial Acts of Parliament, made expressly to check and curb that acquiescence with respect to them.

2ndly, Because the protection given by such Acts, in confidence of which these persons have engaged in their respective occupations, has, in my opinion, the nature of a contract, and is by every rule of equity indissoluble, except by the voluntary consent of the parties, or upon a compensation satisfactory to, and accepted by them, or in extreme necessity, on the tender of such advantages as the wisdom of the legislature should direct, and its justice should make a complete, adequate and ample equivalent for such an infringement of their rights.

3rdly, Because, at the very time protections thus held out by Parliament to certain persons as invitations and encouragements to undertake certain services were boldly violated, the customary exemptions of certain watermen, licensed by the members of this House, unauthorised (as I conceive) by any law, and unknown to any court, though stated in the House by the same noble Lord who

has infringed these protections, to be constructively disclaimed by a vote of this House, were yet declared by him to be from deference and respect held sacred.

4thly, Because the Bill, so far as it is an act of indemnity, is inconsonant with reason, contradicted by precedent, and dangerous in practice.

First, with respect to the persons to be indemnified, as it does not contain an honest avowal of the transgression, as it does not stake the minister to an intentional violation of the law for the public good, to be subsequently approved, and justified on that ground by a public indemnity, but contents itself with the abatement of suits and actions.

And secondly and chiefly, with respect to the constitution of the Kingdom, to which it offers no satisfaction for the violation of the law, as it acknowledges only by construction and a reference to dates, that it has been violated, as it attempts to confound the just ideas of prospective legislation by authorising a measure from a day, which has already long elapsed, and as it totally omits to state not only that the effect has been adequate to the measure, and that therefore the measure has been salutary, but that it has had any effect whatever.

And for the reasons contained in the two last paragraphs of a protest entered this day.

Jacob Pleydell Bouverie, Earl of Radnor.

For the first and fourth reasons.

William Henry Cavendish Bentinck, Duke of Portland.

George Neville, Lord Abergavenny.

George Townshend, Lord de Ferrars.

For the first, third, and fourth reasons.

Charles Lennox, Duke of Richmond.

CCCLXXXV.

FEBRUARY 8, 1780.

On this day Lord Shelburne moved for the appointment of a Committee of both Houses, to be composed of persons who had neither employment or pension, to examine at once into the public expenditure and accounts, and particularly into the mode of making contracts, and that the Committee should see what could be done with offices and places,

which have no duties, or inadequate duties. The motion was seconded by Lord Coventry, and opposed by Lord Stormont. The motion was rejected by 101 to 55. The following protest was entered. For the debate see Parliamentary History, vol. xx, p. 1318.

1st, Because, however the waste of public money, and the profusion of useless salaries, may have been heretofore overlooked in the days of wealth and prosperity, the necessities of the present time can no longer endure the same system of corruption and prodigality.

The scarcity of money, the diminished value of land, the sinking of rents with the decline of trade, are melancholy proofs that we are almost arrived at the end of taxation, and yet the demands are annually increased, while the hopes of peace are every year put to a greater distance.

For let any man consider the immense debt increasing beyond the possibility of payment, with the present accumulation of taxes upon every article, not only of luxury, but of convenience, and even of necessary use; and let him carry his thoughts forward to those additional duties which must immediately be imposed to make good the interest of the approaching loan, and of that debt which will remain unfunded, he will find that at least one million and a half of interest must be provided for, besides what may be farther necessary to make good the deficiencies of the late taxes.

Under these circumstances, the savings of a strict and vigilant economy in every branch, and the application of overgrown salaries, unmerited pensions, and useless places to the public service, are almost the only resources left in the exhausted state of our finances. But, besides this strong argument of necessity that presses upon the present moment, such, and so great are the abuses in the management and expenditure of the public money, as would call for the strictest enquiry and animadversion even in the best of times. The practice of expending immense sums, without consent of Parliament, under the fallacious head of contingencies and extraordinaries, the greater part of which might easily be comprised in an estimate (but because some unforeseen articles are not capable of such precision, the Minister has, under that colour, found out a method of expending the public money first *ad libitum*, and when it has been so expended, has found means to induce Parliament to think itself bound in honour to ratify and make it good), deserves

the highest censure ; and no Minister who shall dare to stake the public credit, for money that has not been voted, ought to be justified by a less authority than an act of indemnity. The millions which remain in consequence unexplained and unaccounted for ; the shameful facility of admitting almost every claim ; the improvident bargains made for the public service ; the criminal neglect and even contempt of the few checks established in the Board of Treasury, besides great part of the money being shared in its passage among a tribe of collectors, clerks, agents, jobbers, or contractors, or paid away by official extortion, or stopped in its course to breed interest for some engrossing individuals, are grievances which the present motion has in view to remedy.

2ndly, But, great and important as the motion is in this view of it, it is still more important in another, as it tends to narrow the wide-spreading influence of the Crown, that has found its way into every corner of the Kingdom.

It is sufficient to allude to this grievance, without any farther enlargement : but this argument, though perhaps the strongest in favour of the motion, has been turned into an objection to it, as if it meant to abridge the rights of Monarchy, and make the Crown dependent upon the Parliament.

If the objection means to insinuate, that corruption is necessary to government, we shall leave that principle to confute itself by its own apparent iniquity.

That this motion is intended to diminish the constitutional power of the Crown, we deny. The constitutional power of the Crown we are no less solicitous to preserve, than we are to annihilate its unconstitutional influence. The prerogative rightly understood, not touched, or intended to be touched by this motion, will support the Crown in all the splendour which the King's personal dignity requires, and with all the authority and vigour necessary to give due effect to the executive powers of Government.

It has been argued, that this is not a proper time for reformation, when all the attention of the Kingdom should be employed upon the war, as the great and only object in the present time of distress ; to which we beg leave to insist, that the present is, for that very reason, the properest time, because nothing is so essential to the conduct and prosecution of the war as the frugal management of that supply by which only it can be carried on with any

prospect of success. Nor ought the plan of economy to be any longer delayed at the risk of a general bankruptcy, and from the history of this, as well as other countries, times of necessity have been always times of reform.

3rdly, Because we conceive that the mode of a Committee, which might be to act with a Committee of the other House, and might, if necessary, be rendered durable, and vested with due powers by an Act of the whole Legislature, might bring back the public expenditure to its constitutional principle, might devise proper regulations for opening contracts to the proposals of every fair bidder, for reforming the abuses of office, and the enormity of fees, with a variety of other abuses, particularly that of large sums of money lying in the hands of individuals to the loss of the State.

An objection has been strongly urged on the ground of an apprehension expressed by some Lords, as if they seriously entertained it, of its producing a quarrel between the two Houses of Parliament, in consequence of which the public business might be obstructed, by a claim on the part of the House of Commons, to an exclusive right of considering and providing for the subjects of this motion.

Such a claim certainly cannot be supported as a consequence of the claim of that House to originate money bills. Not a single Lord appeared to entertain an idea that such a claim would be well founded. In truth, the objection supposes it to be ill founded, and that therefore this House will resist it; and yet it assumes that the House of Commons will advance and persist in this ill-founded claim. We cannot discover any colour for such a supposition, unless we were to adopt the insinuations of those who represent the corrupt influence (which it is our wish to suppress) as already pervading that House. Those who entertain that opinion of one House of Parliament will hardly think less disrespectfully of the other. To them it will seem a matter of indifference whether the motion is defeated by the exertion of that influence to excite a groundless claim in the one House, or by a groundless apprehension of such a claim in the other. But we, who would be understood to think with more respect of both, cannot entertain an apprehension so injurious to the House of Commons as that they would, at this time especially, and on this occasion, have advanced such a claim.

The motion has likewise been objected to on account of its dis-

qualifying persons possessing employments or pensions to be of the proposed Committee. We are far from supposing that the possession of place or pension necessarily corrupts the integrity of the possessor. We have seen, and the public have seen, many illustrious instances to the contrary; yet we cannot but suppose that the public expectations of advantage from this measure would have been less sanguine, if they had seen persons possessing offices selected to distinguish how far their offices were useful, or their salaries adequate; they perhaps would not think the possessor of a pension or office the fittest judge how far that pension or office had been merited or was necessary. We cannot therefore think the motion justly exceptionable on this ground; it rather appears to us to have been drawn with a proper attention to noble Lords in that predicament, exempting them from a situation which they must necessarily wish to decline.

We conceive ourselves warranted in the mode proposed by precedent as well as reason, and it was stated to the House to have been recommended by the most approved constitutional authors who have written since the Revolution, but having offered to meet any other proposition which might carry with it substantial remedy, and no such being offered, notwithstanding the time this proposition has lain before the House, we cannot help considering the present negative as going to the substantial as well as formal part of the motion, and hold ourselves obliged to avail ourselves of our right of entering our protest against the rejection of the above proposition.

4thly, We are farther impelled to press this motion, because the object of it has been seconded and called for by a considerable majority of the people, who are associating for this purpose, and seemed determined to pursue it by every legal and constitutional method that can be devised for its success; and however some may affect to be alarmed, as if such associations tended to disturb the peace, or encroach upon the delegated power of the other House, we are persuaded it has no other view but to collect the sense of the people, and to inform the whole body of the representatives what are the sentiments of the whole body of their constituents, in which respect their proceedings have been orderly, peaceable, and constitutional. And if it be asked what farther is to be done if these petitions are rejected, the best answer is that the case cannot be

supposed; for although upon a few separate petitions it may be fairly said that the other House ought not to be decided by a part only of their constituents, yet it cannot be presumed that they will act in defiance of the united wishes of the whole people, or indeed of any great and notorious majority. It is admitted that they have a power to vote as they think fit, but it is not possible to conceive that so wise an assembly will ever be rash enough to reject such petitions, and by that means cause this dangerous question to be broached and agitated, whether they have not broke their trust? The voice of the people will certainly be complied with.

Ministers may, as they seem to have done in a recent instance, deprive any man of what he holds at their pleasure, for presuming to exercise his undoubted right of thinking for himself on these or other public subjects; but it will not be wise in them to treat these associations with contempt, or call them by the invidious name of faction, a name by which the minority in both Houses of Parliament have been so frequently and so falsely calumniated, because the name so applied will recoil back upon themselves, when acting against the general sense of the nation, nor will they be able to represent these numbers so respectable in rank and property (as they did but too successfully the discontented Americans) as a mob of indigent and seditious incendiaries, because the people to whom this is addressed are the very people that are abused, and every man bears within himself the testimony of its falsehood.

The Ministers, on this particular occasion, cannot deceive the people.

Matthew Fortescue, Lord Fortescue.

Charles Watson Wentworth, Marquis of Rockingham.

William Craven, Lord Craven.

George Simon Harcourt, Earl Harcourt.

Edward Smith Stanley, Earl of Derby.

Henry Herbert, Earl of Pembroke and Montgomery.

George Townshend, Lord de Ferrars.

Thomas Howard, Earl of Effingham.

Edward Hussey Montague, Lord Beaulieu.

Augustus Henry Fitzroy, Duke of Grafton.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

William Courtenay, Viscount Courtenay.

Robert Shirley, Earl Ferrers.

Charles Manners, Duke of Rutland.

Charles Bennet, Earl of Tankerville.

George James Cholmondeley, Earl Cholmondeley.

Richard Lumley Sanderson, Earl of **Scarborough**.
 Charles Pratt, Lord **Camden**.
 Peter King, Lord **King**.
 George Grenville Temple Nugent, Earl **Temple**.
 William Petty, Lord **Wycombe** (Earl of **Shelburne**).
 George Neville, Lord **Abergavenny**.
 Willoughby Bertie, Earl of **Abingdon**.
 George Harry Grey, Earl of **Stamford**.
 George Bussey Villiers, Earl of **Jersey**.
 William Cavendish, Duke of **Devonshire**.
 Jonathan Shipley, Bishop of **St. Asaph**.
 Harry Paulet, Duke of **Bolton**.
 Charles Lennox, Duke of **Richmond**.
 John Hinchcliffe, Bishop of **Peterborough**.
 William Henry Cavendish Bentinck, Duke of **Portland**.
 George Montagu, Duke of **Manchester**.
 George William Coventry, Earl of **Coventry**.

Dissentient without reasons assigned.

Jacob Pleydell Bouverie, Earl of **Radnor**.

For all the above reasons except the fourth.

Francis Godolphin Osborne, Lord **Osborne**.

CCCLXXXVI.

MARCH 6, 1780.

The Marquis of Carmarthen (Lord Osborne) held the office of Vice Chamberlain to the Queen. Unable any longer to support the Administration, he had resigned his office. In his capacity as Lord Lieutenant of the East Riding of York, he had presided over a public meeting of freeholders in York City, convened in order to advocate economical reform, the extinction of sinecure places, the reduction of exorbitant emoluments, the general freedom of Parliament, and, in a word, the extinction of the practice of bribing the Legislature by the gift of places. The York petition was presented on the 8th of February (see *Parliamentary History*, vol. xx, p. 1371) by Sir Geo. Savile, and Burke made his great speech on the same subject on the 11th of February, *Parliamentary History*, vol. xxi, p. 1. The motion of Burke for bringing in a Bill for revising the civil list was carried with only one dissentient, Lord George Gordon. But on the 8th of February Lord Carmarthen was dismissed from his Lord Lieutenancy, and on the 15th of February, Lord Pembroke from that of Wilts, the first named nobleman having announced the fact in the Lord's debate of the 8th of February. A copy of Burke's Establishment Bill may be found in *Parliamentary History*, vol. xxi, p. 111. On the 6th of March, 1780, a motion was made in the Lords by Lord Shelburne, that an humble address be presented to his Majesty to desire that he would be graciously pleased to acquaint this House whether he has been advised

and by whom, to dismiss the said two noble Lords, or either of them, from their said employments for their conduct in Parliament. The debate is in Parliamentary History, vol. xxi, p. 217. The motion was rejected by 92 to 39. From letter 611 in George III's correspondence with Lord North, it seems that the removal of Lord Pembroke was the act of the King himself.

The following protest is entered.

1st, Because we cannot entertain a doubt but that the two noble Lords whose removals from their Lieutenancies have given rise to this motion, suffered this mark of his Majesty's displeasure for their conduct in Parliament.

The facts expressed in the motion were sufficient in themselves to satisfy any reasonable person, that this was the sole cause of their dismissal; and might well have justified an immediate censure on the advisers of that unconstitutional measure. But the motion, at the same time that it was calculated to point the censure at those advisers by name, if it should have been merited, gave them an opportunity of being exculpated if guiltless, by the solemn testimony, which his Majesty would, in such case, have given of their innocence.

2ndly, Because the offer made by the noble Lord who proposed this address, that it should be withdrawn if any one of his Majesty's ministers would declare upon his honour, that these removals were for any other cause, than that which has been alleged, and the silence with which ministers thought fit to receive this proposal, although called upon by almost every Lord, who spoke for the motion, is an additional reason for confirming us in our belief that his Majesty has been advised to remove the two noble Lords from their Lieutenancies for their conduct in Parliament.

3rdly, Because we consider this dismissal of Lords from high and honourable offices on account of their proceedings in Parliament, to be a violation of the Bill of Rights, which declares, 'that proceedings in Parliament ought not to be impeached or questioned (much less punished) in any Court or place out of Parliament;' and we are greatly apprehensive of the consequences, if this daring attempt to subvert one of the most sacred principles of our constitution should pass with impunity, and grow into precedent.

4thly, Because the mischievous tendency of such influence is

greatly augmented by the connection which the offices in question (Lieutenancies of counties) have with the present constitution of Militia. That important branch of the national defence has been so altered as to have almost lost sight of the original principles of an English Militia. The notorious abuses introduced into it, and the disregard paid to the few wholesome regulations remaining in it, would soon make the Militia a dangerous instrument in the hands of the minister, were it not for the exemplary zeal of those gentlemen, who sacrificing every degree of domestic comfort, and submitting to unnecessary and distant removals from their counties, still endeavour to maintain its purity in the character of its officers; and we consider these alterations and abuses, as giving the more just grounds of apprehension and jealousy, as they tend to assimilate the Militia in principle and in habits to the standing army, in which also dangerous innovations appear daily taking place; innovations which though charged in the debate, were neither denied nor defended.

Lastly, Because when ministers in the same moment that they are exerting the influence of the Crown in a most corrupt and unconstitutional manner, think fit to assert, in contradiction to the evidence of all our senses, that it is not increased and is not formidable, we can have little hope that such ministers will ever suffer that influence to be diminished, although its diminution is one of the principal objects of the prayers and petitions of the people, founded on a feeling sense of the increased, increasing, and formidable extent of it.

George Simon Harcourt, Earl **Harcourt**.
Edward Smith Stanley, Earl of **Derby**.
Willoughby Bertie, Earl of **Abingdon**.
William Petty, Lord **Wycombe** (Earl of Shelburne).
Edward Hussey Montagu, Lord **Beaulieu**.
George Neville, Lord **Abergavenny**.
William Craven, Lord **Craven**.
William Cavendish, Duke of **Devonshire**.
William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
Charles Pratt, Lord **Camden**.
George Montagu, Duke of **Manchester**.
Charles Lennox, Duke of **Richmond**.
George Townshend, Lord **De Ferrars**.
Charles Watson Wentworth, Marquis of **Rockingham**.
Thomas Howard, Earl of **Effingham**.
William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

Charles Manners, Duke of Rutland.
Jacob Pleydell Bouverie, Earl of Radnor.
Peter King, Lord King.

CCCLXXXVII.

APRIL 14, 1780.

The Duke of Bolton on this day had moved the second reading of a Bill 'to restrain all persons being members of the House of Commons from being concerned, themselves or by any person in trust for them, in any contract with the Treasury, Admiralty, Ordnance, or other branch of the public service, unless the contract be at a public bidding.' The Bill was opposed by Lords Stormont and Hillsborough (see Parliamentary History, vol. xxi, p. 414), and was thrown out by 61 to 41.

The following protest was inserted.

1st, Because the Commons, desirous of re-establishing the reputation and authority of Parliament, and of giving satisfaction to the people, at a time when the most cordial and unsuspecting confidence between the representative and constituent bodies is essentially necessary, have come to a resolution, 'That it is necessary to declare, that the influence of the Crown has increased, is increasing, and ought to be diminished.'

This resolution we conceive to be undeniably true, and highly seasonable. Their commencement of the diminution (which they have solemnly engaged to make) by the Bill here rejected, is no less judicious. In the midst of a war, in which nothing (among all its unhappy circumstances) is more remarkable than the prodigality with which it is carried on, it appears peculiarly necessary to remove from Parliament the suspicion that the rash adoption, the obstinate continuance, and the corrupt supply of military arrangements, are connected with the support of a Court majority in Parliament.

2ndly, Because the people, oppressed with actual impositions, and terrified with the certain prospect of farther and heavier burthens, have a right to be assured, that none should have a power of laying those burthens, who have an interest in increasing them. Neither is it fit that they who are the principal subject of complaint, should sit as the controllers of their own conduct. Contracts can never be fairly made, when the parliamentary service of the contractor is a necessary understood part of the agreement,

and must be reckoned into the price. But the most unexceptionable contract being a matter of great advantage to the contractor, it becomes a means of influence even when it is not a principle of abuse. It is the greatest of all the bribes a minister has to bestow; and one day's job may be worth the purchase of the fee of most of the places and pensions that are held in that House.

3rdly, Because no reasons have been assigned for the rejection of this Bill, but such as appear to us frivolous or dangerous. It was argued as necessary to abate the frenzy of virtue, which began to shew itself in the House of Commons. This new species of frenzy we look upon to be rather a character of soundness than a symptom of insanity: and we fairly declare, that as we frequently come into contact with the other House, we heartily wish that that distemper may become contagious. Another reason assigned against this Bill, that it is impossible for vast pecuniary emoluments to have any influence on members of Parliament, appears to originate from so perfect a puerility of understanding, or such a contempt of that of the House and the nation, that it is mentioned as a matter to be animadverted upon, not answered. Of the same nature is the argument drawn from supposed improbability of abuses in contracts, because the law has left in the hands of Ministers the means of prosecuting at law the supporters of their power, and the accomplices of their own fraud and malversation. These arguments will give little satisfaction to those who look at the House of Lords as a barrier against some possibly sudden and mistaken warmth of the House of Commons that might be injurious to the just prerogatives of the Crown, or the rights of the people; but we will not bear the gross abuse of this constitutional power; or that this House should set itself as an obstruction to the most honourable, manly, and virtuous resolution ever come to by an House of Commons; a resolution made in direct conformity to the petitions of their constituents. We protest, therefore, against our standing in the way of even the first steps taken towards promoting the independence, integrity, and virtue of a House of Parliament.

George Townshend, Lord de Ferrars.

George Montagu, Duke of Manchester.

Henry Herbert, Earl of Pembroke and Montgomery.

Robert Shirley, Earl Ferrers.

George Neville, Lord **Abergavenny**.
 Charles Watson Wentworth, Marquis of **Rockingham**.
 George William Coventry, Earl of **Coventry**.
 Richard Lumley Sanderson, Earl of **Scarborough**.
 Henry Beauchamp St. John, Lord **St. John of Bletsae**.
 Matthew Fortescue, Lord **Fortescue**.
 Jonathan Shipley, Bishop of **St. Asaph**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 William Courtenay, Viscount **Courtenay**.
 Edward Hussey Montagu, Lord **Beaulieu**.
 Willoughby Bertie, Earl of **Abingdon**.
 William Petty, Lord **Wycombe** (Earl of Shelburne).
 Francis Godolphin Osborne, Lord **Osborne**.
 William Henry Cavendish Bentinck, Duke of **Portland**.
 William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 George James Cholmondeley, Earl **Cholmondeley**.
 William Cavendish, Duke of **Devonshire**.
 Hugh Percy, Lord **Percy**.

For the first and third reasons, adopting however very heartily in the present state of parliamentary representation the sound principles contained in the second, which yet, I conceive inapplicable to the present Bill.

Jacob Pleydell Bouverie, Earl of **Radnor**.

CCCLXXXVIII, CCCLXXXIX.

JANUARY 25, 1781.

A new Parliament was elected in September, 1780, the dissolution being sudden and unexpected, and the time allowed for the elections being short. In consequence, the elections went much in favour of the Court, and of those who were in the secret. Parliament met on the 31st of October, and the Commons chose Mr. Cornwall for their Speaker. On the 25th of January, the King informed the Houses of a new enemy in the State's General of Holland, and laid papers before them.—See Adolphus' History of England, vol. iii; Stanhope's History, chap. lxiii. On the motion for an address, the Duke of Richmond moved for more papers, and copies of the treaties between Great Britain and the seven United provinces, but the application was refused by 84 to 19. For the debate, see Parliamentary History, vol. xxi, p. 994.

The two following protests were inserted.

1st, Because we cannot consent to involve this and other nations in all the horrors of war, but upon the clearest proofs both of justice and necessity: and it would be peculiarly inconsistent with our public trust, without such evidence, to give a parliamentary

sanction to a war against the ancient and natural allies of this nation.

It is on the justice of our cause, and on the absolute necessity of proceeding to such extremities, that we must be answerable to God and our consciences for a measure which necessarily plunges millions of innocent people in the utmost distress and misery. It is on this foundation alone that we can with confidence pray for success, or hope for the protection of Providence.

We conceive that a careful, and above all, an impartial examination of the correspondence between his Majesty's Ministers and his late ambassador at the Hague, and of all the memorials, complaints, requisitions, manifestos, answers, and other papers which have passed between the two Courts, as far as they relate in any respect to the present rupture, is indispensable to warrant Parliament in pronouncing whether the hostilities which his Majesty has authorised his subjects to commence against those of the seven United Provinces are, or are not, founded in justice, and consequently before they can with propriety offer to his Majesty any advice, or promise him any assistance in the present conjuncture.

The sudden attack which the Ministers have advised his Majesty to begin against the property of our neighbours, sailing in full confidence of peace and of their alliance with this nation, made without allowing the usual time stipulated by treaties, even between enemies, for securing the property of unsuspecting individuals in case of a sudden rupture; is a proceeding which, till explained, must appear unwarranted by the Law of nations, and contrary to good faith; nor can we, upon the bare recommendation of Ministers, approve of such a conduct, or determine upon the nice construction of treaties and reciprocal obligations, without so much as hearing what our late allies and friends have on their side to allege.

But the influence of his Majesty's Ministers in Parliament has been such, as to obtain not only the rejection of a motion which has been made for this necessary information, but also to induce this great council of the nation, on a matter deeply affecting their most important interests, to give a solemn opinion without any knowledge of the facts on which they have pronounced with so blindfold a compliance to the will of the Court.

2ndly, Because, however sufficient the reason of justice ought

to be, that of expediency may, perhaps be more prevalent, and is not wanting on this occasion.

It has been the uniform and approved policy of our ablest statesmen, for near a century, to form alliances, and to unite with the powers on the continent to resist the ambitious attempts of the House of Bourbon. The Protestant Republic of Holland, from the freedom of its constitution and sentiment, as well as from its religion, has ever been deemed a valuable support of the liberties of Europe. Twice have they been on the very verge of falling a sacrifice to France in this cause, and we can never believe that their old affection to Great Britain can have been alienated, much less that a direct rupture with them can have become necessary on our part, without gross mismanagement in our councils. We cannot but form the most serious apprehensions at seeing the three great Protestant and free countries of Great Britain, North America, and Holland, so weakening each other by war, as to become an easy prey to the ancient enemy of them all, whenever she shall please to turn her arms against them.

We are not insensible of the distressful situation, with respect to the armed neutral powers, into which we have been led step by step, by the unfortunate American war; but as we are convinced that wicked and weak councils have been the sole cause of that unhappy contest, so we are persuaded that honest and able Ministers might have prevented this, amongst some of its wretched consequences.

But whilst the same measures, which have caused our unexampled calamities, continue to be pursued and cherished; whilst a system of corruption prevails, which must exclude both ability and integrity from our councils; whilst every interest of the State is sacrificed to its support, and every attempt at reformation rejected, our condition can change but from bad to worse.

It is not for us to pretend to foretell events, which are in the hands of Providence; but if causes are suffered to produce their natural consequences, we cannot but apprehend, from the present conduct of our affairs, every danger to this country, both foreign and domestic, to which a nation can be exposed.

Charles Lennox, Duke of **Richmond**.

William Henry Cavendish Bentinck, Duke of **Portland**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

George Simon Harcourt, Earl **Harcourt**.

Robert Shirley, Earl Ferrers.

Charles Watson Wentworth, Marquis of Rockingham.

William Cavendish, Duke of Devonshire.

Henry Herbert, Earl of Pembroke and Montgomery.

George William Coventry, Earl of Coventry.

For the above reasons, and, for that, instead of being convinced of the justice, necessity, or policy of a war with Holland, as we ought to be, before we give our sanction to that measure, it appears to us, as far as the information we possess enables us to judge, to be equally contrary to the interests of both countries, and to the inclinations of all whose inclinations ought to influence the councils of either. Of such inclinations, in many respectable members of the Dutch Government, we thought we saw (and we saw it with pleasure) a sufficient indication to encourage us to hope, that it is not yet too late to open a negotiation, by which, if conducted with the temper, and in the language of conciliation, we may avert the evils which the continuance of this unnatural war cannot fail to produce.

With this view, it was recommended in the debates with the earnestness and seriousness suitable to the occasion, not to lose an hour in proposing a cessation of hostilities with Holland, for the purpose of meeting and cultivating a friendly disposition, of reconciling commercial differences, and for restoring that union of political interests which has been hitherto thought fundamentally necessary to the preservation of the Protestant religion, and of the liberties of Europe. The inattention of his Majesty's Ministers to such a proposition, in the actual circumstances of this country, their disinclination to the objects of it, so plainly manifested by the unprecedented confiscations intended by their proclamations of the 20th of December last, the loss of so valuable an ally, the accession of so considerable a force to the formidable powers, antecedently combined against us, and the just grounds it affords to apprehend the accession of other powers to that combination, leave us no other part to take, as members of this House, after having stated our ideas of the extent of the danger, and suggested what we conceive to be the best and only remedy, than to enter our solemn protest to exculpate ourselves from being accessory to that accumulation of evils, which we foresee, and think might be, but will not be prevented.

William Petty, Lord Wycombe (Earl of Shelburne).

Charles Pratt, Lord Camden.
Charles Lennox, Duke of Richmond.
Robert Shirley, Earl Ferrers.
William Henry Cavendish Bentinck, Duke of Portland.
Charles Watson Wentworth, Marquis of Rockingham.
William Wentworth Fitzwilliam, Earl Fitzwilliam.
Henry Herbert, Earl of Pembroke and Montgomery.

CCCXC.

MARCH 21, 1781.

The loan which Lord North negotiated this year was £12,000,000, and on the following terms: £158, six per cent., £25, four per cent., and four lottery tickets to each subscriber of £1000. The three quantities were valued at £87 + £17 10s. + £1 = £105 10s. On the 12th of March, Mr. Byng moved for a list of the subscribers to the loan alleging that the omnium was at a premium of nine per cent., and even asserting that the profit on the transaction was distributed among the supporters of the Ministry. This was granted. He made also two other motions, one for a list of those who offered to subscribe, and were rejected, and the other for copies of correspondence. These last were rejected, one by 137 to 106, the other without a division. The loan was followed by the imposition of fresh taxes. When the Loan Bill came to the Lords, and was on the point of being read a third time, Lord Rockingham criticised it severely. No reply was made to his remonstrances, and the Bill was passed.

It produced the following protest.

Because when a bargain improvident in its terms, corrupt in its operation, and partial in its distribution, is negotiated by a Minister acting for the public, its having passed through the House of Commons can be no reason for its passing without observation through the House of Lords. Without waving our undoubted right of giving a negative to this or any other Bill, we respect the principle of public credit too much to attempt at this juncture to exercise that right, though, if we looked only at the enormity of the abuse, the most direct opposition never could be more properly called for.

Twenty-one millions are added to the capital of the debt for a loan of twelve. Five and a half per cent. perpetual annuity is granted. £650,000 are to be levied in the yearly taxes upon the people. In such a situation the most rigid economy ought to have been used, and the premium on the loan ought to have been reduced in proportion to the exorbitance of the in-

terest to be paid. Several circumstances appeared favourable to the Minister, if his object had been to serve his country rather than to raise a faction for his own support. Besides the prospects derived from the beginning of a negotiation for peace, it is allowed that treble the sum subscribed had been offered, and a very large part of that surplus by persons more responsible than very many of those who were admitted. In that situation, so favourable to the borrower, where the being permitted to lend was sought with emulation, the first Commissioner of the Treasury chose to make a bargain, opened a ten per cent. premium the day after the loan.

This price was not the effect of mere popular opinion, or of artful management; but was grounded on the real value of the great body of the other stocks at the time, and was no more than what arose from a just relation to the rest. We are the more dissatisfied with this shameful prodigality of public money, by comparing it with the period when a strict and conscientious management of public treasure at home became a sure foundation for the glory of our arms abroad. During the Duke of Newcastle's administration, the premium on the several successive loans from the year 1758 inclusive, to the time of his removal from office, never exceeded one and a half per cent. at the opening; was generally less, and sometimes at a discount; yet the national credit was in vigour. During that time forty-three millions were borrowed. In those happy days, the Ministers standing on national ground, were not in a state of servitude to any set of men, nor led, through a false system of politics, to aggravate the distresses of their country, by hiring a venal cry to personate the voice of the public, and to give support to the measures which had occasioned such distresses.

It is not a matter of surprise to us, at a time when such things can be done with impunity, that Lords of the greatest honour and ability have wholly discontinued their attendance. But it is not improper that those Lords who do sometimes attend, should record their names in testimony of their strong condemnation of the terms of this loan, and of the motives which (they conceive) dictated terms so very disadvantageous to the Crown and the nation.

Charles Watson Wentworth, Marquis of **Rockingham**.

William Henry Cavendish Bentinck, Duke of **Portland**.

Francis Godolphin Osborne, Lord **Osborne**.

Jonathan Shipley, Bishop of **St. Asaph**.

George Townshend, Lord **De Ferrars**.
William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
Harry Paulet, Duke of **Bolton**.
William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

CCCXCI.

JULY 15, 1781.

The Bengal Judicature Bill was read a second time in the House of Commons on the 19th of June, was put into committee on the 22nd, and passed. It passed the Lords without a division, though with some amendments, and received the royal assent on the 17th of July. It is 21 George III, cap. 70. It defines the functions of the Supreme Court at Fort William, and specifies the extent to which British subjects and natives are responsible to it.

The following protest was entered on the third reading.

Because this Bill, instead of preserving that impartiality which characterises all just legislation, enacts that a power of oppression, which is confessedly so great and dangerous, that it shall not be tolerated with respect to the life, the limb, the liberty, or even the property of any British-born subject who has but a temporary and voluntary residence in Hindustan, shall yet subsist against the poor, the friendless, the plundered native, the natural and necessary inhabitant of that country, with all its terrors without limitation, and with scarce an appearance of responsibility.

Because the giving power without responsibility can be justified, in my opinion, by no possible situation of affairs. The abuse of official power and the outrages committed in pursuit of wealth in India, have been observed in this country with an indifference which does no credit to our Government. We shall not, I imagine, acquire any credit by extending that authority, much less by annexing impunity to its abuse.

Because this Bill, which its warmest advocates do not contend is either modelled by the strictest rules of justice, or adequate to the prevention, or punishment of offences committed against the natives, (but which, contrary to reason, to history, and experience, it is presumed will not be committed,) stands upon the single plea, which I contend to be an insufficient and immoral plea, State Necessity; and even this plea we have admitted upon the credit of the Bill itself, without proof, either by evidence at the Bar, or papers on the table; or even the information of any member in the progress of this Bill through the House, of any one circum-

stance on which the Bill originated, of any one abuse which it is to remedy, or of any one act of resistance, which it indemnifies.

Jacob Pleydell Bouverie, Earl of Radnor.

CCCXCII.

NOVEMBER 27, 1781.

On the 19th of October, 1781, Lord Cornwallis surrendered at York town, and the American War was virtually at an end. The news reached London on the 25th of November, two days before the meeting of Parliament. Lord Shelburne moved an amendment to the address, assuring the King 'that they would without delay apply themselves with united hearts to prepare and digest such councils, to be laid at his royal feet, as may excite the efforts, point the arms, and command the confidence of all his subjects.' The debate is to be found in *Parliamentary History*, vol. xxii, p. 639. The amendment was rejected by 75 to 31.

The following protest was entered.

For reasons too often urged in vain, for these last seven years, against the ruinous prosecution of the unjust war, carrying on by his Majesty's ministers against the people of North America, and too fatally confirmed by subsequent experience, and the late disgraceful loss of a second army, to stand in need of repetition.

Charles Lennox, Duke of Richmond.

George Neville, Lord Abergavenny.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

Peter King, Lord King.

Charles Watson Wentworth, Marquis of Rockingham.

Henry Herbert, Earl of Pembroke and Montgomery.

Willoughby Bertie, Earl of Abingdon.

George Townshend, Lord De Ferrars.

CCCXCIII.

FEBRUARY 7, 1782.

Lord George Sackville, third son of the first Duke of Dorset, assumed the name of Germain by Act of Parliament in 1770. He was an energetic minister of Lord North's administration, and quitted it at the beginning of the year 1782, because he was resolute on continuing the war with the colonies. In 1759 Lord George commanded the English cavalry at the battle of Minden (1st of August), but refused or neglected to charge the French in their retreat, though repeatedly ordered to do so by Prince Ferdinand. In February, Lord George was put on his court-martial, and was adjudged unfit to serve his Majesty in any military capacity whatever. The sentence was by the King's command 'given out in public orders, that officers being convinced that neither high title nor

great employments can shelter offences of such a nature, and that seeing they are subject to censures much worse than death to a man who has any sense of honour, they may avoid the fatal consequences arising from disobedience of orders.' Lord George was repeatedly twitted with his apparent cowardice during the time that he held office in Lord North's administration. On his retirement, which the King assented to on condition that he should have his wish of being raised to the Peerage, he was immediately made Viscount Sackville, and was introduced on the 12th of February. On the 7th of February, Lord Osborne (the Marquis of Carmarthen) took notice of the rumour that Lord George was to be made a Peer, and made a motion, reciting the facts. The debate, in which rather strong language was used, is to be found in Parliamentary History, vol. xxii, p. 999 *seq.* The motion of adjournment was carried by 75 to 28, and the following protest of Lord Effingham (Deputy Earl Marshal) was inserted in the journal.

For the reasons contained in the proposed resolution which preceded the motion to adjourn.

Thomas Howard, Earl of Effingham.

CCCXCIV.

FEBRUARY 18, 1782.

On this day the Marquis of Carmarthen renewed the attack on Lord George Germain, now Viscount Sackville, who was in the House at the time. He moved a censure on those who advised the Crown to make Lord George a peer,—Parliamentary History, vol. xxii, p. 1006. Lord George was defended energetically by Thurlow, the Chancellor, and the motion was rejected by 93 to 28.

The following protest was entered.

Because we cannot look upon the raising to the peerage a person so circumstanced in any other light than as a measure fatal to the interests as well as the glory of the Crown, and to the dignity of this House; insulting to the memory of the late sovereign, and likewise to every surviving branch of the illustrious House of Brunswick, repugnant to every principle of military discipline, and directly contrary to the maintenance of that honour, which has for ages been the glorious characteristic of the British nation, and which, as far as can depend on us, we find ourselves called upon, not more by duty than by inclination, to transmit pure and unsullied to posterity.

Francis Godolphin Osborne, Lord Osborne.

Willoughby Bertie, Earl of Abingdon.

Charles Manners, Duke of Rutland.

Henry Herbert, Earl of Pembroke and Montgomery.

William Craven, Lord Craven.

John Pitt, Earl of Chatham.
Edward Smith Stanley, Earl of Derby.
George O'Brien Wyndham, Earl of Egremont.
William Cavendish, Duke of Devonshire.

CCCXCV.

JUNE 30, 1783.

A Bill for the regulation of public offices, with a view to check abuses in such offices, was carried through the House of Commons by William Pitt (Parliamentary History, vol. xxii, p. 946), and brought into the Lords on the 24th of June. It was fixed for a second reading on the 30th of June, and before it came on, a motion was made for a return of fees, gratuities, and perquisites in several public offices. The motion was rejected, and subsequently the Bill.

The following protest was inserted.

1st, Because the information laid before the House of Commons, authenticating many facts of gross abuse and mismanagement, upon which it is presumed this Bill was there passed, was refused by a majority in this House.

2ndly, Because various facts adduced in debate, to prove the existence of gross abuse and mismanagement, were on all hands admitted.

3rdly, Because this House hath refused even to entertain a Bill, founded upon the information contained in those papers, and maturely considered and digested by the other House; and because no adequate solution was proposed, that held a reasonable expectation, that these abuses would be redressed, in the common course and practice of office.

Jacob Pleydell Bouverie, Earl of Radnor.
Francis Godolphin Osborne, Lord Osborne.
Willoughby Bertie, Earl of Abingdon.
George Townshend, Lord de Ferrars.
Thomas Twisleton, Lord Say and Sele.
Thomas Townshend, Lord Sydney.
George Grenville Nugent Temple, Earl Temple.
James Brydges, Duke of Chandos.
Robert Shirley, Earl Ferrers.
John Pitt, Earl of Chatham.
Charles Manners, Duke of Rutland.

CCCXCVI.

JULY 7, 1783.

Lord Effingham, on the 30th of June, brought in a Bill for the relief of insolvent debtors, and for the relief of bankrupts in certain cases. On

the 3rd of July, he moved for leave to call witnesses in support of his Bill, in order to prove the reality of the distress which he wished to relieve; but his motion after debate was negatived. On the 7th of July, when the second reading came on, he moved that the Rev. Mr. Green be called to the Bar, apparently in order that Mr. Green might be protected from arrest while giving evidence, on the plea that he was obeying the orders of the House. This motion was negatived, and the following protest was entered.

1st, Because, whether a Bill be brought in by order of the House, or by an individual member, yet if the propriety of its passing into a law depends on the truth or falsehood of certain allegations, there can be no impropriety in hearing evidence as to the matter of fact.

2ndly, Because, however it may be consistent with the compassionate feelings of the House to take facts to be granted, on which it is meant to ground an act of humanity; yet it is doubtless more consistent with its dignity and wisdom to have them established by evidence; more especially as it was so strongly urged in debate, by the side which opposed the admission of evidence, that compassion to debtors might be cruelty, and even injustice to their creditors.

Thomas Howard, Earl of Effingham.

CCCXCVII.

JULY 7, 1783.

It was next proposed that the second reading of Lord Effingham's Bill should be put off to this day two months. This was carried without a division. Three years afterwards such a Bill was carried through both Houses.

The following protest was inserted.

Because after in admitting in debate, that the facts on which any Bill rests, are in some degree true, and refusing to hear evidence as to the extent to which they are true, it seems hard to reject such Bill without shewing that the provisions of it are not properly applicable to the facts so admitted.

Thomas Howard, Earl of Effingham.

CCCXCVIII.

AUGUST 9, 1784.

On the 17th of December, 1783, Fox's East India Bill was rejected by the Lords (96 to 76); chiefly, it was said, through the hostility of the

King. At midnight on the 18th of December, the King dismissed his ministers, and appointed Pitt with others in their room. On the 14th of January Pitt brought in his East India Bill. Both Bills may be found in *Parliamentary History*, vol. xxiv, pp. 62, 413. On the 16th of January Lord Charles Spencer moved that the appointment of the ministry was new and extraordinary, and that it did not command the confidence of the House. This motion was carried by 205 to 184. Pitt's Bill was read a second time on the 23rd of January, and rejected by 222 to 214, and Fox obtained leave to bring in a fresh India Bill. Fear was entertained that there would be a dissolution, but on the 26th of January Pitt assured the House that he would not advise such a course. On the 2nd of February Mr. Grosvenor moved that it was expedient that there should be an efficient, extended, and united administration, and carried his motion. On the 3rd of February Mr. Coke carried a motion against the continuance of Pitt and his colleagues in office by 211 to 187. In the Lords, on the 4th of February, the Earl of Effingham commented on the conduct of the Commons, and carried by a large majority (100 to 53) a resolution condemnatory of their proceedings, on the plea that the Commons had attempted to suspend the execution of Law. This led to recrimination in the Commons on the motion of Lord Beauchamp (5th of February) and the appointment of a Committee to report on precedents,—see *Parliamentary History*, vol. xxiv, p. 534. On the 18th of February the Commons debated on the refusal of the King to dismiss his ministers, and on the 20th of February agreed, by 177 to 156, to the motion of Mr. Powys for an efficient and united administration. On the 27th of February the King's answer was reported to the Commons, and on the 1st of March Fox moved an address to the King, begging him to dismiss his ministers, and carried it by 201 to 189. On the 4th of March the King refused to accede to the proposal, and on the 5th of March Fox proposed and carried, by 171 to 162, the postponement of the Mutiny Bill. On the 8th of March Fox moved and carried, by 191 to 190, a representation to the King on the state of public affairs. On the 24th of March the King put an end to the Session, and on the 25th of March to the Parliament. The new Parliament met on the 18th of May, and on the 6th of July Pitt passed his India Bill. The Bill was read a second time in the Lords on the 2nd of August, and carried on the 9th of August. It received the royal assent on the 13th of August, and is 24 Geo. III, cap. 25, Stat. ii.

The following protest was inserted on the third reading.

Because we think the principle of this Bill false, unjust, and unconstitutional. False, inasmuch as it provides no effectual remedy for the evils it affects to cure; unjust, as it indiscriminately compels all persons returning from India to furnish the means of accusation and prosecution against themselves; and unconstitutional, because it establishes a new criminal Court of Judicature, in which the admission of incompetent evidence is

expressly directed, and the subject is unnecessarily deprived of his most inestimable birthright, a trial by jury.

William Henry Cavendish Bentinck, Duke of **Portland**.
 Frederic Howard, Earl of **Carlisle**.
 William Cavendish, Duke of **Devonshire**.
 George James Cholmondeley, Earl of **Cholmondeley**.
 Robert Henley, Earl of **Northington**.

CCCXCIX.

JULY 18, 1785.

The King's Speech on the 25th of January, 1785, recommended the Houses to take into consideration the adjustment of the commercial relations between Great Britain and Ireland, with a view to the reciprocal advantage and general prosperity of both kingdoms. In consequence, on the 22nd of February, Pitt moved that eleven resolutions agreed to by the Irish Parliament (*Parliamentary History*, vol. xxv, p. 312) should be read, and proceeded to expound his plan. In consequence, a conference was held with the Lords on the 31st of May, when twenty resolutions were agreed to. They are to be found in the *Lords' Journal* for that day. They were debated *seriatim* on the 18th of July (*Parliamentary History*, vol. xxv, p. 831), when a division was taken on the question that these propositions be taken into account on that day four months, which motion was negatived by 84 to 30.

The following protest was inserted.

Because we conceive the plan contained in the report, as well from the manner in which it has been introduced and conducted, as from the matter which it contains, to be likely to create and promote jealousy and disaffection between the two Kingdoms.

Edward Smith Stanley, Earl of **Derby**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 Other Hickman Windsor, Earl of **Plymouth**.
 Robert Henley, Earl of **Northington**.
 George Augusta Lumley Sanderson, Earl of **Scarborough**.
 Augustus Keppel, Viscount **Keppel**.

CCCC.

JULY 7, 1786.

On the 10th of June a message was sent to the Lords from the King, expressing a desire that the state and condition of the woods, forests, and land revenues belonging to the Crown should be made the subject of an enquiry, with a view to making them as productive as possible. In consequence a Bill was brought in and passed on the 7th of July, by 28 to 18,

receiving the royal assent on the 11th of July. This Act, 26 George III, cap. 87, creates a Board of Commissioners of Woods and Forests. The regulations for the sale of Crown-rents referred to in the subjoined protest are contained in the tenth and following sections of the Act. The opposition was chiefly from Lord Loughborough.

The following protest is entered.

1st, Because the provisions of the Bill are extended to an object not disclosed in the title, and the preamble not expressed in his Majesty's most gracious message, on which the Bill professes to be founded. An inquiry to be made into the state and condition of the woods, forests, and land revenues belonging to the Crown, is the only purpose set forth in the title and preamble; his Majesty's message authorises no more; yet the Bill proceeds to a sale of certain parts of the land revenue belonging to the Crown, which is neither conformable to the usual course of parliamentary proceeding, nor consistent with the respect due to the immediate possessions of the Crown.

2ndly, Because the sale directed by the Bill is injurious to the Crown, without being beneficial to the subject; it is not restrained to the rent remaining unsold (if there be any such), under the directions of the Acts 22nd and 23rd of Charles II. But these Acts are by this Bill expressly repealed, a new power is created for the sale of Crown-rents under the survey of the Exchequer, without any exception of rents within the principality of Wales, or those paid in name of tithe by the ecclesiastical persons; of those charged with the support of schools, hospitals, bridges, of those paid by freehold or copyhold tenants of manors belonging to the Crown; neither is there any saving of the rights of the Queen's Majesty, nor any provision to protect the subject against the claim of rents not put in charge within forty years; all which exceptions and reservations were inserted in the Acts now repealed.

3rdly, Because the powers of survey given to the commissioners are dangerous to the quiet of the subject, and derogatory to the honour of the Crown. Commissions of inquiry are directed to be issued by the Court of Exchequer on the mere motion of the commissioners, without any other form of judicial proceeding, or any attention to the ancient course of the Exchequer, whereby all estates contiguous to any forest or lands belonging to the Crown, are subject, at their pleasure, to an inquisition into ancient boundaries, supposed encroachments, and concealed titles. By the powers of

inspection and control, which on a supposition of abuses not stated, are given to these commissioners, the tenants of the Crown may be restrained from their accustomed privileges, in the occupation and renewal of their estates; and the management of the Crown lands, which, with a just and becoming confidence, is in the most ample terms reserved to his Majesty, by the first Act of his reign, in the ninth and tenth sections, is submitted to the censure of the commissioners, not appointed nor removable by the Crown.

4thly, Because every just purpose which the appointment of commissioners can reach, might, without expense to the public, have been attained, by calling for the reports of the officers of his Majesty's Land Revenue, to whose skill, diligence, and integrity, no exception has been made.

Alexander Wedderburn, Lord **Loughborough**.

Frederic Howard, Earl of **Carlisle**.

William Henry Cavendish Bentinck, Duke of **Portland**.

John Montagu, Earl of **Sandwich**.

Christopher Wilson, Bishop of **Bristol**.

CCCCI.

MARCH 6, 1787.

The King's Speech on the 23rd of January informed the Houses of Parliament that a Treaty of Navigation and Commerce had been concluded with France; and on the 23rd of February a conference of both Houses was held, in which certain resolutions (twenty in number) were debated; and on the 6th of March an address to the Crown was agreed to. The debate on the French Treaty took place in the Commons on the 12th of February,—Parliamentary History, vol. xxvi, p. 381. That in the Lords was held on the 1st of May and the 6th of March,—Parliamentary History, vol. xxvi, p. 534. The first resolution was carried by 94 to 35, and the address by 74 to 24.

The following protest was entered.

Because, though we are at all times desirous to join in expressions of gratitude to his Majesty for his gracious intentions to promote the welfare of his people, we cannot concur in the address proposed. Our regard for the principles of the Constitution will not permit us to say that we have taken into our most serious consideration the provisions of a treaty which must undergo a more serious consideration in the regular progress of a Bill, nor to give assurances that we shall take such steps as may be necessary for giving effect to a system which it will be our duty freely to discuss in all the

stages of deliberation, that by the rules of Parliament must precede decision.

The observance of these rules is more particularly necessary, when a system is proposed, repeatedly declared by solemn Acts of the Legislature to be pernicious and apparently opposite to that course of policy, by which, for a century past, this nation has increased its navigation and commerce, maintaining always an independent and sometimes an eminent station amongst the Powers of Europe.

William Henry Cavendish Bentinck, Duke of Portland.

William Cavendish, Duke of Devonshire.

John Stuart, Lord Cardiff.

Alexander Wedderburn, Lord Loughborough.

Henry Herbert, Lord Porchester.

Thomas Foley, Lord Foley.

Frederic Howard, Earl of Carlisle.

Charles Howard, Duke of Norfolk (Earl Marshal).

George Augusta Lumley Sanderson, Earl of Scarborough.

CCCCII.

FEBRUARY 21, 1788.

The articles of Hastings' impeachment may be found in the Lords' Journal, vol. xxxvii, p. 678 sqq. On the 21st of February the method in which the trial should be conducted was discussed in the Lords. Lord Thurlow moved that the Commons be informed that they do proceed to produce all their evidence in support of their impeachment, before the defendant be called upon for his defence. On the other hand Lord Loughborough moved that the procedure should follow the rule marked out by the managers for the Commons, which was that the several articles should be sustained and the defence of Hastings stated, *seriatim*. Lord Thurlow in his reply, commenting on Lord Strafford's trial, spoke of Pym as a licentious and unprincipled fellow, and disclaimed all knowledge of the law and usage of Parliament. Thurlow's motion was carried by 88 to 33.

The following protest was entered.

1st, Because we hold it to be primarily essential to the due administration of justice, that they who are to judge, have a full, clear, and distinct knowledge of every part of the question, on which they are ultimately to decide; and in a cause of such magnitude, extent, and variety as the present, where issue is joined on acts done at times and places so distant; and with relation to persons so different, as well as on crimes so discriminate from each

other by their nature and tendency, we conceive that such knowledge cannot but with extreme difficulty be obtained, without a separate consideration of the several articles exhibited.

2ndly, Because we cannot, with equal facility, accuracy, and confidence, apply and compare the evidence adduced, and more especially the arguments urged by the prosecutors on one side, and the defendant on the other, if the whole charge be made one cause, as if the several articles be heard in the nature of separate causes.

3rdly, Because, admitting it to be a clear and acknowledged principle of justice, that the defendant against a criminal accusation, should be at liberty to make his defence in such form and manner as he shall deem most to his advantage; we are of opinion that such principle is only true so far forth, as the use and operation thereof shall not be extended to defeat the ends of justice, or to create difficulties and delays equivalent to a direct defeat thereof; and because we are of opinion that the proposition made by the managers of the House of Commons, if it had been agreed to, would not have deprived the defendant in this prosecution of the fair and allowable benefit of such principle, taken in its true sense, inasmuch as it tended only to oblige him to apply his defence specially and distinctly to each of the distinct and separate articles of the impeachment in the only mode in which the respective merits of the charge and of the defence can be accurately compared and determined, or even retained in the memory, and not to limit or restrain him in the form and manner of constructing, explaining, or establishing such defence.

4thly, Because in the case of the Earl of Middlesex, and that of the Earl of Strafford, and other cases of much less magnitude, extent, and variety, than the present, this House has directed the proceedings to be according to the mode now proposed by the managers on the part of the Commons.

5thly, Because, even if no precedent had existed, yet, and from the new and distinguishing circumstance of the present case, it would have been the duty of this House to adopt the only mode of proceeding, which, founded on simplicity, can insure perspicuity, and obviate confusion.

6thly, Because we conceive, that the accepting the proposal made by the managers, would have been no less consonant to good policy than to substantial justice, since by possessing the

acknowledged right of preferring their articles as so many successive impeachments, the Commons have an undoubted power of compelling this House in future, virtually to adopt that mode which they now recommend, and if ever they should be driven to stand on this extreme right, jealousies must unavoidably ensue between the two Houses, whose harmony is the vital principle of national prosperity ; public justice must be delayed, if not defeated ; the innocent might be harassed, and the guilty might escape.

7thly, Because, many of the reasons upon which a different mode of conducting this prosecution has been imposed upon the Commons, as alleged in the debate upon this subject, appear to us of a still more dangerous and alarming tendency, than the measure itself, forasmuch as we cannot hear, but with the utmost astonishment and apprehension, that this Supreme Court of Judicature is to be concluded by the instituted rules of the practice of inferior courts. And that the law of Parliament, which we have ever considered as recognized and revered by all who respected and understood the laws and the constitution of this country, has neither form, authority, nor even existence ; a doctrine which we conceive to strike directly at the root of all parliamentary proceeding by impeachment, and to be equally destructive of the established rights of the Commons, and of the criminal jurisdiction of the Peers, and consequently to tend to the degradation of both Houses of Parliament, to diminish the rigour of public justice, and to subvert the fundamental principles of the constitution.

William Henry Cavendish Bentinck, Duke of **Portland**.

Francis Russell, Duke of **Bedford**.

Edward Smith Stanley, Earl of **Derby**.

William Cavendish, Duke of **Devonshire**.

George Harry Grey, Earl of **Stamford**.

John Stuart, Lord **Cardiff**.

Alexander Wedderburn, Lord **Loughborough**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

William Craven, Lord **Craven**.

Dissentient for the first and second reasons only.

George Townshend, Marquis **Townshend**.

George Simon Harcourt, Earl **Harcourt**.

George Townshend, Earl of **Leicester**.

Dissentient for the first, second, and last reasons.

George Montagu, Duke of **Manchester**.

CCCCIII.

MARCH 19, 1788.

The Bill complained of in the subjoined protest, 28 George III, cap. 8, was debated under the title of the East India Declaratory Bill on the 12th of March. The objections generally taken to it were that it interfered with the chartered rights of the Company, particularly those designated by the Act of 1784. The Opposition divided on every stage, and the division on the third reading was 71 to 28. The debate in both Houses may be found in *Parliamentary History*, vol. xxvii, p. 178.

1st, Because we object altogether to the very style and form of the present Bill, inasmuch as it purports to be a Declaratory Bill of a kind as dangerous in its application as it is certainly unusual, if not new in its principle. If the Act of the 24th of his Majesty be clearly expressed, any declaration of its sense is evidently unnecessary; if it be worded, whether from accident or design, in dark and equivocal terms, we conceive that, in order to do away every ambiguity, the mode most open and candid in itself, as well as most regular and conformable to the usage of Parliament, would have been by a Bill to explain and amend, and not to declare. And we cannot but behold this extraordinary Bill with yet greater alarm, when it has been avowed that it is intended to operate as an act of indemnity for past measures not explicitly stated. Surely it is a proposition absurd and monstrous on the very face of it, to call upon this House to declare what was and is law, subject to provisions which shall be. A declaration so qualified is a new species of Bill of indemnity, which unlike all others, does not content itself with holding forth terms of protection against the penal consequences of an illegal act committed, but retrospectively alters and reverses the nature and essence of the action itself from its very origin, if certain prospective conditions be subsequently observed.

2ndly, Because the preamble of the present Bill, which must be presumed to set forth the legal grounds of the proposed declaration, does not appear to us in reality to contain any such grounds. It offers nothing more than partial and pieced extracts from various sections of the 24th of his present Majesty, two of which evidently convey only general powers to be exercised 'in such manner as in the said Act is directed,' that is, subject to limitations and modifications not recited in the preamble; and the third of these

extracts, which is taken from the conclusion of the 11th section of the Act abovementioned, is in truth part of the clause imperative on the Directors, not enabling to the Commissioners; binding the former to obey the orders of the latter (that is, all such orders as they may lawfully issue under other parts of the Act), but not conferring on the latter any portion of distinct power. Their powers, whatever they may be, must be sought in the enabling clauses of the Act, by which alone this imperative clause can be construed, but of which not a trace is to be discovered in the preamble.

3rdly, Because the limitations and restraints on the power of the Commissioners, which are now imposed for the first time in this Bill, carry with them an intimation highly derogatory to the honour and wisdom of this House, inasmuch as they imply, that in the very moment when this House felt the most tender apprehensions for the safety of chartered rights, and when they were most anxiously alarmed for the consequences of transferring the power and patronage of the Company even for a time, they consciously and deliberately passed an Act, by which those rights were to be superseded, and that power and patronage in effect vested in the Board of Control for ever, without sufficient checks and guards to protect the one, or to prevent the corrupt use of the other. The authors of these limiting and restraining clauses have left to the majority of this House no other refuge from the imputation of this inconsistency, but in an ignorance of that meaning, which we are now called upon to declare.

4thly, Because, if any such limitations and restraints be indeed necessary, the provisions of this Bill, we are persuaded, must prove nugatory and inefficient.

5thly, Because coupling the Act of the 24th of his Majesty with all its accumulated explanations and amendments, and understanding the powers there conferred on the Commissioners to the extent implied in the preamble and limiting clauses of the present Bill, the system established by that Act, in truth, realises all the dangers which were ever attributed to another measure then recently rejected by this House, and is certainly fruitful of formidable mischiefs proper to itself, friendly to corrupt intrigue and cabal, hostile to all good government, and especially abhorrent from the principles of our popular constitution.

The patronage of the Company (and this seems to be the most serious terror of the people of England) the Commissioners enjoy in the worst mode, without that responsibility which is the natural security against malversation and abuse. They cannot immediately appoint, but they have that weight of recommendation and influence which must ever inseparably attend on substantial power, and which in the present case has not anywhere been attempted to be denied. Should this fail them in the first instance, they can intimidate and encourage: they can suppress the approbation and censure of the Directors on their own servants; they can substitute blame for praise, and praise for blame, or they may instantly recall whomsoever the Directors may appoint against their will: and this they may repeat, till they ultimately compel the Directors, harassed and over-awed, to nominate the man whom the Commissioners may wish to favour. Nor is this disposal of patronage without responsibility, the only evil that characterises the system; all the high powers and prerogatives with which the Commissioners are vested, they may exercise invisibly, and thus for a period at least, invade, perhaps in a great measure finally baffle, all political responsibility; for they have a power of administering to their clerks and other officers an oath of secrecy framed for the occasion by themselves; and they possess in the India House the suspicious instrument of a Secret Committee, consisting only of the chairman, the deputy chairman, and one other director, all bound to them by an oath.

Through these they have sent an arrangement for paying the debts of the Nabob of Arcot, beneficial to individuals, injurious to the Company, and fundamentally contradicting the plain principle of an express clause in that very Act by which their own Board was instituted; and through these they have concurred to transmit a dispatch, altered too by themselves, on a subject of mere trade, over which they profess to disclaim all right of management. After such examples we must confess, that our imaginations cannot figure to us any description of business, which may not be sheltered behind the thick veil of the Secret Committee; and from our past experience, relative to the first of these transactions, we are so justly sensible of the great advantages with which the servants of the Crown must argue on such topics before an assembly constitutionally disposed to a general confidence in them, that we should be sanguine indeed, did we but expect any considerable check to be

given to the possible misconduct of the Board of Control, by the fears of a parliamentary inquiry.

6thly, Because the operation of this Bill, and of the Act, the meaning of which it is to declare, ought to have been limited to the duration of the existing Charter. Whatever may be the right of the Legislature to subject the trade and the general revenues of the Company to the inspection and control of the Board of Commissioners, nominated by the Crown, so long as the Company continue in the enjoyment of an exclusive trade, and in the management of great territorial revenues, we must, however, maintain, that to perpetuate such inspection, and to render the signatures of that Board necessary to all the Company's dispatches of every kind, when they may carry on their trade merely as a commercial corporation, without any monopoly, and when they may remain in the management only of their own proper estates, is a measure of injustice wholly unprecedented, and an example liable to much reasonable jealousy in a commercial country like Great Britain.

On all these grounds of objection ; to the style and form of the Bill, as a declaratory bill ; to the incongruities, absurdities, and deficiencies of the Bill itself ; to much of the principle, and to all the distinguishing characters of the system which it is meant to declare, as well as to the perpetual operation which it gives to that system, we think it incumbent upon us, here solemnly in the Journal of Parliament, to record our hearty dissent for the satisfaction of our consciences, and for our justification to our fellow-citizens, and to posterity.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

Frederic Howard, Earl of Carlisle.

George Augusta Lumley Sanderson, Earl of Scarborough.

William Craven, Lord Craven.

George Grenville Nugent Temple, Marquis of Buckingham.

John Montagu, Earl of Sandwich.

William Henry Cavendish Bentinck, Duke of Portland.

Henry Herbert, Lord Porchester.

Edward Smith Stanley, Earl of Derby.

William Cavendish, Duke of Devonshire.

George James Cholmondeley, Earl Cholmondeley.

George Edward Henry Arthur Herbert, Earl of Powis.

John Stuart, Lord Cardiff.

Francis Russell, Duke of Bedford.

Alexander Wedderburn, Lord Loughborough.

For the first, second, third, fourth, and fifth reasons.

Robert Hay Drummond, Lord Hay (Earl of Kinnoull).

CCCCIV.

DECEMBER 29, 1788.

In the summer of 1788, the King was out of health. Gradually it was observed that his mind was affected, and in the autumn he was wholly incapable of attending to any business. On the 4th of December Parliament met, and the King's physicians, Dr. Richard Warren, Sir George Baker, Sir Lucas Pepys, Dr. Henry Revell Reynolds, and Dr. Anthony Addington were examined as to the nature and probable duration of the King's ailment. A Committee of the Lords was therefore appointed for the purpose of searching for and reporting on precedents in the case of the personal exercise of the Royal authority being prevented or interrupted by infancy, sickness, or infirmity, with a view to providing a remedy. This Committee on the 17th of December reported on cases of (1) infancy, (2) sickness or infirmity, (3) absence where provision had been made by the Sovereign, (4) absence where the remedy was provided by the great council of the nation, or by the two Houses of Parliament, and (5) miscellaneous cases. The report is printed in the *Lords' Journals*, vol. xxxviii, p. 276.

When Pitt moved for a similar enquiry in the Commons on the 10th of December, Fox claimed that the regency belonged of right to the Prince of Wales, a position which Pitt declared to be wholly destitute of authority. The result was that three resolutions were agreed on by both Houses; to the effect that the King was disabled, that it is the right of the two Houses in such a case to supply the machinery of government, and that the two Houses should devise the means by which the Royal assent should be given to a Regency Bill. The debate is to be found in the *Parliamentary History*, vol. xxvii, pp. 658-1093. The resolutions were carried by 94 to 68.

The following protest was entered.

1st, Because we adhere to the ancient principle recognized and declared by the Act of the 13th of Charles II, that no act or ordinance, with the force and virtue of a law, can be made by either or both Houses of Parliament, without the King's assent, a principle standing as a bulwark to the people against the two Houses, as the two Houses are their security against the Crown.

2ndly, Because this principle is tacitly admitted by the third resolution, while it overthrows the practice by a simulate appearance of the Royal assent under a commission to pass Bills, a commission which would be inconsistent with the provisions of an Act of 33 Henry VIII, requiring that every commission shall be signed by his Majesty's hand.

In our present unhappy situation, that essential requisite being unattainable, we cannot condescend to give a sanction to a counterfeit representation of the Royal signature, and we dare not assume a power to dispense with the law which makes that signature essential to the validity of a commission to pass Bills.

3rdly, Because we conceive that the unquestionable rights of the people, so fallaciously represented as being upheld by these resolutions, are violently infringed by an unnecessary assumption on the part of the two Houses of powers beyond those which the nation has assigned them. Invariable practice, in all good times, and positive laws established by complete Parliaments, truly and constitutionally representing the nation, have defined these powers. And we cannot but regard with the utmost apprehension any proposal to overstep those boundaries, when the consequence of such usurpation is so fatally marked in the history of our country.

4thly, Because it was confessed in the debate, that the powers of this commission were not to be confined solely to the act of appointing a Regent ; to what other purposes they may extend were not explained. State necessity, the avowed ground of the measure, may serve as the pretext for any diminution of the just prerogative of the Crown, or of the liberties of the people, that best suits the designs of ambition. Fatal experience had shown to our ancestors the boundless mischiefs of powers thus usurped under plausible appearances ; and it is particularly the duty of the House of Peers to check the renewal of a practice to assume the name, without the substance, of the Royal authority, by which this House was once annihilated, the monarchy overthrown, and the liberties of the people subdued.

5thly, Because these dangerous and alarming consequences of the measure adopted would have been obviated by the amendment rejected. It proposed to substitute a measure conformable to the practice of our ancestors at the glorious era of the Revolution. They seized not upon public necessity as a convenience for the usurpation of new powers, but proceeded in a plain and explicit form to the revival of the Royal authority with full efficacy, before they entered upon the exercise of their legislative functions. Pursuing a similar course, the amendment proposed the immediate nomination of the natural representative of the King, the heir apparent of the Crown, to whom alone it was universally admitted

the eyes and hearts of all men were turned during the present unhappy conjuncture; that with a perfect and efficient Legislature, such future provisions might be enacted, as the preservation of the full and undiminished authority of the Crown and the liberties of the people may require.

Frederic, Duke of **York**.
 Henry Frederic, Duke of **Cumberland**.
 Francis Russell, Duke of **Bedford**.
 Hugh Percy, Duke of **Northumberland**.
 William Ponsonby, Lord **Ponsonby** (Earl of **Bessborough**).
 Charles Sloane Cadogan, Lord **Cadogan**.
 John Howard, Earl of **Suffolk and Berkshire**.
 George John Spencer, Earl **Spencer**.
 Frederic Howard, Earl of **Carlisle**.
 Charles Maynard, Viscount **Maynard**.
 Charles Howard, Duke of **Norfolk** (Earl Marshal).
 David Kennedy, Earl of **Cassilis**.
 Francis Rawdon, Lord **Rawdon**.
 John Campbell, Earl of **Breadalbane**.
 John Stuart, Lord **Cardiff**.
 George Thicknesse Touchet, Lord **Audley**.
 James Harris, Lord **Malmesbury**.
 Robert Hay Drummond, Lord **Hay** (Earl of **Kinnoull**).
 John Bligh, Lord **Clifton** (Earl of **Darnley**).
 George Brydges Rodney, Lord **Rodney**.
 George Kinnaird, Lord **Kinnaird**.
 Dunbar Hamilton, Earl of **Selkirk**.
 John Howe, Lord **Chedworth**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 Alexander Wedderburn, Lord **Loughborough**.
 William Henry Cavendish Bentinck, Duke of **Portland**.
 Thomas Pelham, Lord **Pelham**.
 William Cavendish, Duke of **Devonshire**.
 Horatio Walpole, Lord **Walpole**.
 Edward Smith Stanley, Earl of **Derby**.
 George Devereux, Viscount **Hereford**.
 Christopher Wilson, Bishop of **Bristol**.
 George James Cholmondeley, Earl **Cholmondeley**.
 George Augusta Lumley Sanderson, Earl of **Scarborough**.
 William Craven, Lord **Craven**.
 Thomas Foley, Lord **Foley**.
 Henry Herbert, Lord **Porchester**.
 Francis Hastings, Earl of **Huntingdon**.
 Edmund Boyle, Lord **Boyle** (Earl of **Cork and Orrery**).
 Charles Fitzroy, Lord **Southampton**.
 John James Percival, Lord **Lovel and Holland** (Earl of **Egmont**).
 William John Kerr, Marquis of **Lothian**.

Francis Seymour Conway, Earl of Hertford.
Henry Nevill, Earl of Abergavenny.
George Townshend, Marquis Townshend.
Other Hickman Windsor, Earl of Plymouth.
Henry Roper, Lord Teynham.
Thomas Trevor Hampden, Viscount Hampden.

CCCCV.

JANUARY 23, 1789.

The Houses adjourned from the 1st of January to the 5th, and thence to the 12th. Meanwhile the Government had prepared certain other resolutions, to which both Houses agreed. These resolutions appointed the Prince of Wales Regent, under certain limitations. They debarred him from granting a peerage, except to members of the Royal Family, who shall reach twenty-one years, from granting any office, salary, or pension, except such as are by law for life or good behaviour, or from granting any of the King's real or personal estate, except the renewal of leases. The last resolution gave the care of the King to the Queen. The first resolution was carried by 94 to 68.

The following protest was entered.

1st, Because we firmly adhere to the principles and arguments on which we disapproved the resolutions formerly passed by this House, especially when the legislative power of the two Houses of Parliament, unconstitutionally assumed by those resolutions, is meant to be employed to restrict or suspend many important and essential branches of the Royal power, at the moment of the declared incapacity of the King.

2ndly, Because we think the power of conferring the rank and privileges of the peerage, as a reward to merit, is necessary to the Royal authority, in order to afford an incitement to vigorous exertions in the service of the State, and is more peculiarly necessary, like all other parts of the prerogative, when the regal power is to be exercised by a substitute, with an authority uncertain and precarious in its duration; but especially on the present occasion, as it is the only branch of the prerogative sufficiently powerful to afford a remedy against such a combination in this House, as other parts of this system of restriction and mutilation have a natural and obvious tendency to produce. And because we conceive that this restriction may create an interest in the members of this House, to withhold their assent to restore the ancient power of the Crown in this respect.

3rdly, Because we conceive that, by the subsisting law of the land, his Majesty's property is sufficiently secured from any undue disposition and alienation, and the resolution on that subject can have no other effect, but to convey to the public injurious suspicions and unjust imputation on the character and intentions of His Royal Highness the Prince of Wales.

4thly, Because we are of opinion, that in order to maintain the proper dignity of the Crown, and preserve the due influence and respect which arises from the great offices of State, it is necessary that the person exercising the Royal authority, in the name and on the behalf of his Majesty, should be attended by those distinguished servants whose functions have been established for the purpose of adding weight and splendour to the regal office. We cannot agree to a division of the Royal power; to the creation of a fourth estate, unknown to the constitution of the country.

Frederic, Duke of **York**.

Henry Frederic, Duke of **Cumberland**.

Edward Smith Stanley, Earl of **Derby**.

William John Kerr, Marquis of **Lothian**.

William Douglas, Lord **Douglas** (Duke of **Queensberry**).

Francis Seymour Conway, Earl of **Hertford**.

William Cavendish, Duke of **Devonshire**.

Charles Sloane Cadogan, Lord **Cadogan**.

Francis Rawdon, Lord **Rawdon**.

Henry Beauchamp St. John, Lord **St. John of Bletsae**.

George Thicknesse Touchet, Lord **Audley**.

William Craven, Lord **Craven**.

Edmund Boyle, Lord **Boyle** (Earl of **Cork and Orrery**).

Charles Maynard, Viscount **Maynard**.

Richard Watson, Bishop of **Llandaff**.

George James Cholmondeley, Earl **Cholmondeley**.

Francis Russell, Duke of **Bedford**.

Frederic Howard, Earl of **Carlisle**.

Archibald Montgomerie, Earl of **Eglinton**.

John Montague, Earl of **Sandwich**.

George Devereux, Viscount **Hereford**.

George Kinnaird, Lord **Kinnaird**.

Henry Herbert, Lord **Porchester**.

Henry Stawell Bilson Legge, Lord **Stawell**.

Charles Henry Mordaunt, Earl of **Peterborough and Monmouth**.

John Campbell, Earl of **Breadalbane**.

Thomas Pelham, Lord **Pelham**.

Horatio Walpole, Lord **Walpole**.

George Gordon, Earl of **Aberdeen**.

John Stuart, Lord **Cardiff**.
 Christopher Wilson, Bishop of **Bristol**.
 David Kennedy, Earl of **Cassilis**.
 Charles Fitzroy, Lord **Southampton**.
 Robert Hay Drummond, Lord **Hay** (Earl of Kinnoull).
 Henry Nevill, Earl of **Abergavenny**.
 Anthony Ashley Cooper, Earl of **Shaftesbury**.
 George Brydges Rodney, Lord **Rodney**.
 Alexander Wedderburn, Lord **Loughborough**.
 John Howe, Lord **Chedworth**.
 Hugh Percy, Duke of **Northumberland**.
 George Augusta Lumley Sanderson, Earl of **Scarborough**.
 William Henry Cavendish Bentinck, Duke of **Portland**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 Thomas Foley, Lord **Foley**.
 Francis Hastings, Earl of **Huntingdon**.
 George Grenville Nugent Temple, Marquis of **Buckingham**.
 George O'Brien Wyndham, Earl of **Egremont**.
 William Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 James Harris, Lord **Malmesbury**.
 Lewis Monson Watson, Lord **Sondea**.
 Thomas Bromley, Lord **Montfort**.

For the second, third, and fourth reasons.

Aubrey Beauclerk, Duke of **St. Alban's**.

For the first, second, and fourth reasons only.

John Bligh, Lord **Clifton** (Earl of Darnley).
 John Howard, Earl of **Suffolk and Berkshire**.
 George John Spencer, Earl **Spencer**.
 Martin Bladen Hawke, Lord **Hawke**.

For all the reasons given in this protest, excepting those in the latter parts of the second reason, viz. beginning at these words, 'But especially on,' and from thence to the end of the second reason.

Dunbar Hamilton, Earl of **Selkirk**.

CCCCVI.

JUNE 29, 1789.

In the course of Warren Hastings' trial, a question arose as to the manner in which the Lords should put questions to the judges, and upon their answering these questions. The question was referred to a committee of the whole House, and the committee reported, 'that the House has proceeded in a regular course.' This resolution produced the following protest.

1st, Because by consulting the judges out of Court in the absence of the parties, and with shut doors, we have deviated from the most approved and almost uninterrupted practice of above a century and a half, and established a precedent, not only destructive of the justice due to the parties at our Bar, but materially injurious to the rights of the community at large, who, in cases of impeachments, are more peculiarly interested, that all proceedings of this High Court of Parliament should be open and exposed, like all other Courts of Justice, to public observation and comment, in order that no covert and private practices should defeat the great ends of public justice.

2ndly, Because from private opinions of the judges upon private statements, which the parties have neither heard nor seen, grounds of a decision will be obtained, which must inevitably affect the cause at issue at our Bar; this mode of proceeding seems to be a violation of the first principles of justice, inasmuch as we thereby force and confine the opinions of the judges to our private statement, and through the medium of our subsequent decision, we transfer the effect of those opinions to the parties, who have been deprived of the right and advantage of being heard by such private, though unintended transmutation of the point at issue.

3rdly, Because the prisoners who may hereafter have the misfortune to stand at our Bar, will be deprived of that consolation which the Lord High Steward Nottingham conveyed to the prisoner Lord Cornwallis; (videlicet) that the Lords have that tender regard of a prisoner at the Bar, that they will not suffer a case to be put up in his absence lest it should prejudice him by being wrong stated.

4thly, Because unusual mystery and secrecy in our judicial proceedings must tend, either to discredit the acquittal of the prisoner, or render the justice of his condemnation doubtful.

Henry Herbert, Lord Porchester.

John Howard, Earl of Suffolk and Berkshire.

Alexander Wedderburn, Lord Loughborough.

CCCCVII.

MAY 16, 1791.

The House of Commons had sat for seven years at the summer of 1790, and a dissolution necessarily took place. When the new Parlia-

ment met the question was raised in the Commons, as to whether the impeachment of Hastings was abated, *Parliamentary History*, vol. xxviii, p. 1018. On the 16th of May, 1791, the Lords, on the motion of Lord Porchester, settled the question in the form that 'a message be sent to the Commons to acquaint them that this House will proceed with the trial of Warren Hastings, Esq.' See *Parliamentary History*, vol. xxix, p. 514. For the precedents see *Lords' Journals*, vol. xxxix, p. 125. The motion was carried by 66 to 18, and the following protest was inserted.

1st, Because I conceive the question to be complicated, containing different propositions as to the judgment, the process, and other points, which ought to have been divided and stated singly and separately.

2ndly, Because the subject being of a judicial nature of great magnitude, and which may ultimately affect, not only the life, liberty, and property of every Peer in this House, but also of every person in this Kingdom, I conceive it should not have been decided upon so hastily, but ought to have been solemnly argued point by point, with the assistance of the judges.

3rdly, Because this resolution, as I conceive, indirectly sets aside the law and practice of Parliament in all ages, relative to impeachments being abated by dissolution without one precedent to the contrary, except in the cases which happened after the order made on the 19th of March, 1678-9, which order was, as I conceive, unfounded in precedent, and made, as it should seem, on the spur of the occasion; and which was reversed and annulled on the 22nd of May, 1685, in pursuance of which last order, consonant to the law and practice of Parliament, the Earl of Salisbury and the Earl of Peterborough were discharged on the 30th of October, 1690.

4thly, Because the order of the 22nd of May, 1685, stands now on the journals unrepealed; and consequently, as I conceive, is in force, and the acknowledged law of the land upon the subject.

5thly, Because this Court in its judicial character ought, as I conceive, to be governed by all other Courts of law, by precedents and by its own orders unrepealed, where any precedents are established, or orders made, more especially when such precedents are consonant to the law of the land, and to the law and usage of Parliament; that the subjects of this country may know with

precision and certainty the resolutions and laws by which in this High Court of Judicature, from which there is no appeal, their lives, liberties, and property, are to be decided and disposed of.

6thly, Because extending the duration of this impeachment from one Parliament to another, after a dissolution, even on the ground of the impeachment of the Earl of Oxford having been continued after a prorogation, by the resolution of this House of the 25th of May, 1717, is, as I conceive, to extend criminal law by inference and analogy, which is contrary to the known and settled rules of justice.

7thly, Because whatever merit or demerit this resolution may contain, I neither claim the one, nor am content that myself or my posterity should share the other.

Martin Bladen Hawke, Lord Hawke.

CCCCVIII, CCCCIX.

JUNE 8, 1791.

On the 20th of May, Mr. Fox introduced his Libel Bill in the form of a motion 'that the Grand Committee on Courts of Justice do sit on Tuesday next,' in which he was supported by Erskine. This project was withdrawn however, and Fox then moved for leave to bring in a Bill 'to remove doubts respecting the rights and functions of juries in criminal cases.' The Bill was read a first time on the 25th of May, committed on the 31st of May, and passed on the 1st of June. The principle of the Bill was to give the jury the right to give a general verdict of guilty or not guilty on the whole issue, and was intended to be a declaratory statute, called for by the ruling of Lord Mansfield on Libel trials. The second reading was moved in the Lords by Lord Stanhope. The proposal was met by the Chancellor (Thurlow) moving that the Bill be read that day month, the lateness of the Session being alleged as the ground for delay. The motion was carried apparently without a division. Parliament was prorogued on the 10th of June.

The following protests were entered.

1st, Because we hold it to be an unalienable right of the people that, in cases of libel (as well as in all criminal cases), the jury should decide upon the whole matter that may constitute the guilt or innocence of the person accused, and that in cases of libel, the jury ought not to be directed by the judge to pronounce the defendant or defendants guilty, merely on the proof of the publication by such defendant or defendants of the paper charged

to be a libel, and of the sense ascribed to the said paper in the indictment or information.

2ndly, And because we conceive that the said right of the people is of the utmost consequence to the freedom of this nation, and to that bulwark of its rights, the liberty of the press.

3rdly, And because we conceive that the Bill sent from the Commons is well calculated to convey a parliamentary declaration and enactment of the said important right of the people, and because we conceive every delay of such declaration and enactment to be in the highest degree dangerous to the safety of the subject.

4thly, And because we conceive that we cannot with propriety refuse our immediate assent to propositions which no person in the debate did deny to be salutary ; and because we conceive that this delay tends to give countenance to doubts that we apprehend to be utterly ill-founded, and to encourage a contest of jurisdiction that can only be injurious to the regular and impartial administration of justice in this Kingdom.

Charles Stanhope, Earl Stanhope.

For the first and second reasons.

Jacob Pleydell Bouverie, Earl of Radnor.

1st, Because we conceive, that the Bill sent from the Commons is of the highest importance for the preservation of the rights of juries ; and that considering the different opinions which have prevailed of late years with respect to this subject, we conceive every delay of a parliamentary declaration and enactment to be dangerous in the highest degree to the safety of the subject.

2ndly, Because whatever difference of opinion may subsist in regard to the existing law, there seems to be so general a concurrence with respect to what ought to be the law in future, that we cannot, with propriety, refuse our immediate assent to provisions, which are admitted to be salutary, on the ground of requiring time to ascertain how far the late practice of the Courts is or is not justifiable by the law of the land.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

James Maitland, Earl of Lauderdale.

Henry Herbert, Lord Porchester.

William Henry Cavendish Bentinck, Duke of Portland.

Robert Auriol Hay Drummond, Lord Hay (Earl of Kinnoull).

CCCCX.

MAY 31, 1792.

On the 21st of May the King issued a proclamation against 'seditious writings.' The demand for parliamentary reform, particularly in large unrepresented towns, was urgent, and the action of Pitt in 1782 justified or seemed to justify the claim. On the 30th of April, Mr. Grey gave notice that he should in the next Session move for leave to amend the representation. This action was taken in consequence of a meeting held by 'the friends of the people' in Freemason's Tavern on the 26th of April, at which Mr. Lambton was in the chair. The address of the association may be found in Parliamentary History, vol. xxix, p. 1305. When the King's proclamation was read in the Commons, on the 25th of May, Mr. Grey made a vigorous attack on the administration of Pitt, charged him with political malignity, and called him 'a public apostate from the first step of his public life to the present moment.' The debate in the Lords took place on the 31st of May, and was remarkable for a speech by the Prince of Wales, and by a violent altercation between Lord Lauderdale and the Duke of Richmond, the latter having quitted the party of parliamentary reformers. The amendment to the address moved by Lord Lauderdale was negatived without a division, and the following protest, containing the amendment, entered.

1st, Because we think the honour and dignity of Parliament trifled with by a solemn call, without any adequate cause, and upon slight pretences, to make unnecessary professions of attachment to the constitution, and of zeal for his Majesty's government, and to concur in applauding his Majesty's ministers for advising this extraordinary measure of a royal proclamation, and a recurrence to the authority of Parliament; a measure not called for, and which appears to us much more calculated to awake causeless apprehensions, and excite unnecessary alarm among a people affectionate to the King, and obedient to the laws, than to answer any of those salutary purposes for which alone ministers should presume to use the royal name and authority.

2ndly, Because those writings which his Majesty's ministers now consider as likely to disturb the public peace, and excite dangerous tumults, and of which the prosecution is, on a sudden, deemed by them indispensable to the preservation of order, and the security of government, have been permitted for a considerable time past to be openly, and, as is asserted, industriously disseminated through every part of the Kingdom; and, therefore, if the principles thus propagated be so subversive of all order, and

destructive of all government, and are at the same time so unfortunately calculated to make a rapid, alarming, and fatal progress in the minds of a peaceable and enlightened people, as ministers have, in debate, maintained, it would well become the care and wisdom of Parliament, instead of committing its authority in the measures of executive government, and taking part in the ordinary execution of the laws, to inquire why so important a discovery was not made at an earlier period, and why the ministers have so long permitted the salutary terrors of the law to sleep over offences, the prosecution of which so highly imported the public safety.

3rdly, Because, if it be expedient to punish the authors and publishers of seditious writings, we think it the province of the executive government to determine upon that expediency, and to put the law in motion; and we cannot but consider as pernicious in its example, and unconstitutional in its principle, the present attempt made by the Ministers to shelter themselves, justify their conduct, and cover what, according to their argument, has been their criminal negligence, by a measure of Parliament. We believe the laws to be sufficiently efficacious for the punishment of such offenders as are described in the royal proclamation, and we see no reason why Parliament should take from his Majesty's ministers any part of the responsibility which appertains to their stations, of advising the Crown, and directing its law officers as to the fit seasons and proper occasions on which any of the law, for preserving the public peace should be enforced; nor can we observe, without expressing our marked disapprobation, that the confidence which the public still place in the wisdom and integrity of Parliament, notwithstanding all the attempts made by the present ministers to destroy it, is insidiously laid hold of by them to create public prejudice, and excite public indignation against those who are represented as obnoxious to the laws, and objects of prosecution. A sense of justice might have taught the Ministers, that to fair and impartial trials, uninfluenced by any previous declaration, unprejudiced by any previous interference of Parliament, even the authors and publishers of those writings that have at last awakened the attention of ministers, are entitled; and a sense of decorum should have restrained them from lessening the dignity, and committing the honour of Parliament, by making it, indirectly indeed, but, to the common

sense of mankind, obviously, a party in public prosecutions, which Parliament is thus made to sanction and direct, and on which this House, in the highest and last resort, may have to sit in the impartial and uninterested, but awful, character of judges.

4thly, Because, in this measure by which Ministers in effect confess and record their past inattention to the dangers which they now deprecate, and their present inability to discharge the ordinary duties of their station without the extraordinary aid of Parliament, the public cannot fail to perceive that weakness and inefficiency in his Majesty's councils, which are more hurtful to the true interests, and more derogatory from the just authority of government, than any imaginary progress which, with great injustice to a loyal people, ministers attribute to the principles asserted in the writings of which they complain.

5thly, Because, when we consider how long the Ministers have viewed with unconcern the circulation of those opinions, at the consequence of which they now affect to be alarmed, and when we recollect that of all those societies for the purpose of obtaining a reform in the representation of the people, and mentioned in the debate, one only is of recent origin, we have but too much reason to believe, that under whatever form they have disguised their design, the real object of Ministers has been to subject to suspicion and distrust the principles, misrepresent the views, and calumniate the intentions of that association of respectable persons lately formed for purposes the most virtuous and constitutional, upon principles the most pure and disinterested, to be pursued by means the most legal and peaceful; wielding no weapons but those of truth and reason; using no efforts but those of argument, unsupported by party; appealing only to the sense and judgment of a public deeply interested in the objects of their pursuit, and not presuming to demand any personal credit but what may be derived from their steadiness, consistency, and integrity. This society appears to be the only one which has excited the jealousy of those Ministers from whom justice has extorted an admission in debate, that nothing offensive, or even improper, has proceeded from it. Of those Ministers, some of whom have themselves engaged, but to a much greater extent, and upon much broader principles in the prosecution of the same general objects, the attainment of which they declared not only indispensable, but

alone capable of preserving the liberties of the people, and perpetuating the blessings of the constitution; but which objects, with the peaceful possession of power and emolument, they have long neglected and lost sight of, and now, at last, in the face of the public, in defiance of the most solemn engagements, unblushingly abandon. Such are the Ministers who have presumed to use the royal name and authority to a proclamation, by which insinuating the existence of dangers, of which even some of their most confidential friends have declared their disbelief, they vainly hope to divert the attention of a discerning public from their apostasy from principles, and their dereliction of opinions which paved their way to power, and for which they stood deliberately and repeatedly pledged to a generous, confiding, and, at last, deluded people.

6thly, Because, if the objects of that association thus particularly aimed at by his Majesty's ministers were not expressly justified by their former principles and professions, as the Act itself of associating to pursue those objects is sanctioned by their former conduct and example, we should still see nothing in it to discommend, but much to applaud. A moderate and temperate reform of the abuses of the constitution is due to the people, who being on their part just to the monarchical and aristocratical branches of the constitution; who commit no invasion of the rights, and seek no abridgment of the powers of either, are entitled to have their own share in the legislation of their country freed from the unjust usurpation of others, and to possess uninvaded, and to exercise uncontrolled by the other branches of the government, those rights, which this happy constitution in the matchless excellence of its principles has solely and exclusively allotted to the people.

A reform of such a character and description may lessen the means and diminish the opportunities of corrupting legislation both in its source and in its progress; it may reduce the influence by which unconstitutional ministers preserve their power, but it will save the nation from their profusion, and perpetuate that constitution which all equally profess to venerate. Such a reform, we believe, cannot with perfect safety be long delayed—the more readily and cheerfully those rights which belong only to the people are restored by those who at present in too many instances possess and exercise them, the more firm and established will be the present happy form of our

government, the more safe from risk and danger will be the just prerogatives of the Crown, and the peculiar acknowledged hereditary privileges of this House.

James Maitland, Earl of Lauderdale.

CCCCXI.

JUNE 11, 1792.

Fox re-introduced his Libel Bill in 1792, which was carried in the Commons without a division, and was read a second time in the Lords on the 20th of March. It was opposed as before by the Chancellor (Thurlow), who argued that the opinion of the judges should be given. It was debated anew on the 27th of April, when it was determined to put certain questions to the judges. The answers to these questions were given on the 11th of May. The question of commitment was debated on the 16th and 21st of May, and was carried affirmatively by 57 to 32. It passed the Committee on the 1st of June, and was read a third time and passed on the 11th of June, receiving the royal assent on the 15th of June. It is 32 George III, cap. 60.

The following protest was entered after the third reading.

1st, Because the rule laid down by the Bill, contrary to the determination of the judges and the unvaried practice of ages, subverts a fundamental and important principle of English jurisprudence, which, leaving to the jury the trial of the fact, reserves to the Court the decision of the law. It was truly said by Lord Hardwicke, in the Court of King's Bench, that if ever these came to be confounded, it would prove the confusion and destruction of the law of England.

2ndly, Because juries can in no case decide, whether a matter of record be sufficient upon which to found a judgment. The Bill admits the criminality of the writing set forth in the indictment, or information, to be matter of law whereupon judgment may be arrested, notwithstanding the jury had found the defendant guilty. This shows that the question is upon the record, and distinctly separated from the province of the jury, which is only to try facts.

3rdly, Because, by confining the rule to an indictment, or information, for a libel, it is admitted that it does not apply to the trial of a general issue in an action for the same libel, or any sort of action, or any other sort of indictment, or information: but as the same principle and the same rule must apply to all general

issues, or to none, the rule as declared by the Bill is absolutely erroneous.

Edward Thurlow, Lord Thurlow (Lord Chancellor).
Henry Bathurst, Earl Bathurst.
Lloyd Kenyon, Lord Kenyon.
Willoughby Bertie, Earl of Abingdon.
Thomas de Grey, Lord Walsingham.
John Warren, Bishop of Bangor.

CCCCXII, CCCCXIII.

FEBRUARY 1, 1793.

On the 28th of January the King sent a message to the Houses of Parliament, commenting on the facts which had just occurred at Paris, and communicating the correspondence of M. Chauvelin, late ambassador from France, to the House. The King requested an augmentation of forces, and commented on the propagation of principles on the part of France, which 'lead to the violation of the most sacred duties, and are utterly subversive of the peace and order of all civil society.' The address moved by Lord Grenville was of course the echo of the speech. Lord Stanhope moved an amendment, to the effect that the House would take the matter into consideration, while they deprecated war. The amendment was negatived without a division, and the following protests were inserted.

1st, Because war is a state so unnatural, so barbarous in itself, so calamitous in its effects, so immoral when unnecessary, and so atrocious when unjust, that every friend of humanity should endeavour to avoid it; and the establishment of a pacific system ought to be the first policy of a wise and enlightened nation.

2ndly, Because peace is always for the interest of the common people in all countries. And Great Britain and France, from their peculiar situation, have an evident interest to remain at peace with each other.

3rdly, Because it is a well-known fact that the people in France are in general extremely desirous to maintain and strengthen, between that country and this, the bonds of amity and friendship. And ever since the overthrow of despotism in France, the commonalty in that nation have such irresistible weight, that we might rest assured that, as peace with Great Britain is for the interest, and is the wish of the people in France, it would therefore be the constant object of their Government, if not first provoked

by our Ministers, by such acts as the sending away the French ambassador, and expressly refusing to acknowledge their new Government.

4thly, Because it does not appear by the papers communicated to this House by his Majesty's command, that any act of hostility against this country has been committed on the part of France. But, on the contrary, that a rupture has been actually brought about by an act of our Government.

5thly, Because the old, despotic, and detestable Government in France, from its secrecy, its perfidy, treachery, and restless ambition, has been the fatal cause of many wars in Europe for several centuries past. Therefore, any assistance given on the part of our Government to any Power in Europe that is endeavouring to restore that tyrannical form of Government in France, is injurious to the true interests of this country. And the people of France have, moreover, as just a right to enjoy civil liberty as ourselves.

6thly, Because a war with France is at present most impolitic, extremely dangerous to our allies the Dutch, hazardous with respect to the internal peace and external power of this country, and is likely to be highly injurious to our commerce, which is the great source of our wealth, naval strength, and prosperity. And any material interruption to the trade, manufactures, and industry of this Kingdom, may at this time be attended with consequences the most fatal. The war may, therefore, prove to be a war against our commerce and manufactures, against the proprietors of our funds, against our paper currency, and against every description of property in this country.

7thly, Because every man of feeling must exceedingly lament the numerous taxes and oppressive burthens already borne by the people of this Kingdom, and also the present high price of various necessary articles of life; and if an unwise system of policy be pursued, it must inevitably increase those burthens and eventually put those necessities of life beyond the reach of the laborious part of the community.

And 8thly, Because these misfortunes ought the more to be deprecated, as it clearly appears that it would still be most easy to avoid them, if our Ministers were to prefer a mild, just, and pacific system, to the horrors of war, carnage, and devastation.

Charles Stanhope, Earl Stanhope.

1st, Because the immediate tendency of the address is, to plunge the nation into a war.

2ndly, Because we consider war as an evil of such magnitude, that nothing but absolute necessity can justify it.

3rdly, Because we have not heard of any danger to this country which renders war necessary.

4thly, Because the observance of good faith towards our allies does not require us to engage in war, his Majesty's Ministers having admitted, that Holland has not demanded our interference, and it being notorious that Russia has been the aggressor against France.

5thly, Because, though we feel the utmost horror at the atrocious act of cruelty and injustice mentioned in the address, we think that no injustice, however flagrant, committed in a foreign State, and having no relation to other countries, is a just ground for making war.

6thly, Because we are more likely to obtain the objects, whether of policy or principle, in the way of negotiation than war; the aversion of France to break with this country, which has lately stood the test of repeated provocations, putting it in our power at this moment to give peace to all Europe; whereas, by entering into the war, we shall put all at stake; we shall be to join a league, whose duration cannot be depended on; our marine will be to act against armed vessels only, and that of the French against a trade which covers every quarter of the globe.

7thly, Because in no view of policy can we discover any advantage to be obtained to this country by war, however successful. The experience of our two last wars has taught us the little value of foreign acquisitions; for having lost America in the last of them, we now enjoy a more beneficial intercourse with it as an independent State, than we did when it formed a part of the British dominions.

8thly, Because we think it the interest of this country to preserve peace with all mankind, but more especially with France.

9thly, Because even if it should be thought consonant to the honour and magnanimity of this nation to seek the depression of France, that end will be most effectually promoted by leaving them to their own internal dissensions, instead of uniting them by an hostile aggression in a common cause, and thus calling forth all their energy.

10thly, Because as every war must be concluded by a peace, negotiation must at some time take place, and we must ultimately depend upon the good faith of France, unless we proceed upon a principle of partition, conquest, or extermination.

11thly, Because the measures now in view will utterly derange our system of finance, our war resources having been applied towards defraying the expense of our peace establishment, in consequence of which our floating unfunded debt, which amounted at the commencement of the American war only to £3,100,000, has accumulated to above ten millions, exclusive of India bonds; besides which, the additional effect that the late enormous extension of private banking, to an amount unknown, may have upon our public credit in case of war, is what no one can foresee.

12thly, Because we dread the increase of those public burthens, which already bear so hard on the poorer part of the community; and because we are convinced that nothing can endanger our happy Constitution, but an interruption of those blessings which it now affords us, by the calamities of an unnecessary war.

William Petty, Marquis of Lansdowne.

James Maitland, Earl of Lauderdale.

Dissentient for the first and third reasons, and for that part of the fourth beginning with the word 'because,' and ending with the word 'interference'; for the whole of the fifth and twelfth reasons.

Edward Smith Stanley, Earl of Derby.

CCCCXIV, CCCCXV.

MARCH 14, 1793.

William Pulteney, Walpole's rival, was created Earl of Bath on the 14th of July, 1742, but died without heirs. His estate passed to his next brother, Henry Pulteney. Henry Pulteney's daughter and heiress, Frances, married Sir William Johnston, who took the name of Pulteney. The issue of this marriage was a daughter, Henrietta Laura Pulteney, who married Sir James Murray, her husband also taking the name of Pulteney. On the 22nd of July, 1792, Henrietta Laura Pulteney was made Baroness of Bath, with the usual limitations. But on the 18th of August, 1789, Thomas Thynne, Viscount Weymouth, had been raised to the title of Marquis of Bath. On the 14th of March, 1793, Lord Radnor called attention to the grant of the barony, objecting to the mode in which the title was obtained, and to the absurdity of giving the same name

to two different families, observing that attempts had lately been made to turn titles and honours into ridicule. He moved therefore for a Committee to enquire into the question whether the same specific title could be granted to any person during the limitation of the grant to another person. The Chancellor ridiculed the proposal, and on a division it was lost by 21 to 2.

The following protests were entered.

Because we conceive the real dignity of the Peerage was not less concerned in the adoption of this motion, than the justice due from this House to the individual member whose title has been disposed of in this unprecedented manner. If it be true, as asserted in the debate, that the practice of duplicating titles is exceedingly usual, such practice could at least have been shown. The challenge was fairly and roundly given, and instead of being answered, was with round assertions parried. The titles of Douglas, borne by three noble members of this House, though discriminated as they are in a manner the most proper, most regular, and most distinct, were assimilated to the instance in question. It could hardly be believed, without our assertion, that the House could have been induced to negative the motion, by arguments founded on such real or pretended ignorance.

Because the novelty of such practice appeared to us to be proved, as far as a negative is capable of proof, by the following, among various other considerations: viz. (1) That though noble families, in the earlier periods of our history, were frequently deprived of the rank of Peerage, by attainders or otherwise, and afterwards restored, not a single instance appears in which titles, conferred on other families in the interval, had been re-granted, or re-claimed; and, on the contrary, several instances were pointed out, in which different titles had been assumed upon such occasions, their ancient titles not being at the time of such restoration vacant. (2) When the Duke of Buccleugh obtained from the Crown in 1743 the honour of its recommendation to be restored to the hereditary seat in this House, forfeited by the attainder of his ancestor the Duke of Monmouth, that favour was confined to such titles as were not vested in other families, and consequently the title of Monmouth was omitted. (3) When Thomas, Earl of Arundel and Surrey, could not obtain from King Charles the First his consent to a general reversal of his ancestor's attainder, and his own consequent restoration to the Dukedom of Norfolk, he yet secured a possibility

of his future restoration (which afterwards took place), by soliciting and obtaining the Earldom of Norfolk, which could hardly, on any other principle, be an object. And, (4) When King Edward the Fourth wanted to give his son the Earldom of Pembroke, he first obtained a resignation of that title from the then Earl.

Because we conceive the practice to be unjust, and the consequences of it inconvenient, farcical, and ridiculous; and think it necessary to be resisted in the first instance. And,

Because, upon the doctrine of the hour (for of the hour only we trust it is), the Minister stands complimented by the House with a more powerful instrument of mortifying individuals, than any known prerogative of the Crown, or even, in our opinion, the Court of Wards and Liveries itself ever furnished. The grievances of the latter were heavy, but temporary; the injury occasioned by this modern invention is perpetual, and claimed by its patrons as irremediable.

Jacob Pleydell Bouverie, Earl of **Radnor**.
George Townshend, Earl of **Leicester**.

Lord Radnor then moved that an address be presented to the House praying the King to revoke Lady Bath's patent. The Chancellor said that it was impossible to adopt the proposal, and unconstitutional to do so, if it were possible. The proposal was negatived without a division. On this Lord Radnor moved to express the regret of the House at the proceeding. This was also negatived.

Because though we adhere to the motion last negatived, and trust that our opinion will prevail, in case a seat in this House shall be ever claimed by virtue of this patent, believing the grant to be unauthorized by custom and precedent, and void in law, as it is upon every principle of justice and decorum, yet as the House had refused to question the power of the Crown to confer the title, we waved our own opinion so far, as to endeavour to induce the House to mediate with the Crown graciously to remit the exercise of such power, being (as we conceive) incompatible with the honour of the House and the vested right of the individual members, and we lament extremely our ill success. The Act for regulating the precedence of the Peers, obviated those grievances which partial or temporary favour might occasion; but the grievance arising from precedence given arbitrarily, though it had also been given in perpetuity, could not in any degree be compared to this. An instance,

infinitely short of this in our opinion, is pronounced by the Lord Chancellor Clarendon, in his history, to be the most unnecessary provocation he had known, and, in his belief, the chief cause of Lord Strafford's execution.

And lastly, we consider this representation to the Crown to be peculiarly proper at a time when theoretical speculations, and attempts at ridiculing all established forms and privileges, are unfortunately so prevalent.

Jacob Pleydell Bouverie, Earl of Radnor.

George Townshend, Earl of Leicester.

CCCCXVI, CCCCXVII.

JUNE 6, 1793.

Out of the sixteen Scotch Peers returned to the House of Lords at the election of 1790, twelve were declared to be duly elected. An equal number of votes was given for six others, and for nearly three years the question as to the validity of the votes given at the election was debated from time to time in the Lords. Ultimately a set of nine resolutions was agreed to by the Lords, disallowing some votes, and allowing others. In consequence the return was amended on the 10th of June. The Duke and Earl were the Duke of Queensberry and the Earl of Abercorn.

The following protests are inserted.

1st, Because the noble personages whose votes are declared by the above resolution to have been duly and sufficiently tendered, being at that time Peers of Great Britain by patent, seem to have assumed a right of voting at the election of Peers of Scotland, to which they had no legal claim. The Articles of Union, and the different Acts of Parliament passed in consequence of that Treaty appearing to provide every regulation respecting the election of the Peers of Scotland, with a reference to the precise state of the Peerage of Scotland at the period of the Union; particularly in the Act of 1708, where a special proviso is enacted, directing the manner in which such Peers of Scotland as are also Peers of England, shall sign their proxies and lists; no mention whatever is made of such Peers of Scotland as may in future be created by patent, Peers of Great Britain.

2ndly, Because the only Court competent to decide on the merits of the elections of the sixteen Peers, namely, this House, has by a resolution of the 21st of January, 1708, distinctly declared, 'That a Peer of Scotland claiming to sit in the House of Peers, by virtue

of a patent passed under the Great Seal of Great Britain after the Union, and who now sits in the Parliament of Great Britain, had no right to vote in the election of the sixteen Peers who are to represent the Peers of Scotland in Parliament.' A copy of which resolution was on the 18th of May, 1787, ordered by the House to be signed by the Clerk of the Parliaments, and transmitted to the Lord Clerk Registrar of Scotland, with injunction to him to conform thereto.

3rdly, Because the claim of the noble Duke and the noble Earl above-mentioned, to vote at the said election under the then existing circumstances, appears to have been unsupported by any Act of the Legislature, and in direct contradiction to the repeated resolution and orders of this House.

And lastly, because it is presumed that no tender of a vote, however accurate in point of form, can be declared to be due and sufficient when the person so tendering it, was not at the time legally entitled to the franchise of election.

Francis Godolphin Osborne, Duke of Leeds.

Robert Auriol Drummond Hay, Lord Hay (Earl of Kinnoull).

1st, Because this resolution is utterly incompatible with all rational construction of the twenty-second Article of the Treaty of Union, subversive and destructive of those rights and advantages which are reserved to the Peerage of Scotland, by that solemn national compact. The principles of their representation appear equally violated, whether it be considered as a compensation for the rights which the Scottish nobility surrendered, or as a security and guard for the rights which they retained.

The right of representation being given to the Peers of Scotland for the loss of their hereditary seat in Parliament, nothing seems more evident than that the compensation cannot be justly claimed by those who no longer suffer the loss. But while by this resolution the elective right is lavished on those who have recovered an hereditary seat, its worth and value is diminished to the Peers of Scotland, who were justly entitled to that growing importance of their suffrage, which was to arise either from the operation of time in lessening their number, or from the promotion of their more favoured brethren to a superior class of Peerage.

To attain a purpose so iniquitous and absurd as that of indemni-

fyng men for a loss under which they no longer labour, at the expense of those who continue to suffer it, we are to accumulate on the heads of one description of Lords elective franchise and hereditary right, in a manner new in precedent, subversive of that equality which is the basis of Peerage, and of that separation of original from delegated right which forms the principle of representation. Nor is it less manifest, that all the security which the Peers of Scotland derive from the seat granted to their representatives in the Parliament of Great Britain, is destroyed by this resolution. Peers of Great Britain, or those who are elected by Peers of Great Britain, can in no reasonable or honest sense be called representatives of the Peers of Scotland. The object of representation cannot be obtained without identity of interest; it implies at least some control on the representative, some responsibility to the constituent. But the most important interests of the Peers of Great Britain might survive the destruction of the Peerage of Scotland, and they possess no shadow of check or control over pretended representatives, who after having betrayed their dearest rights, would still retain hereditary seats in this House, in contempt of their rejection, and in defiance of their displeasure. The utmost extremes of absurdity and injustice are the result of that construction of the Treaty of Union, which is necessary to justify this resolution. His Majesty may in process of time be pleased to raise a majority of the Peerage of Scotland to the rank of British Peers. That majority may elect sixteen representatives of their own number. Thus constituents who have no interest in maintaining the rights of the Scotch nobility, will nominate representatives equally unconcerned in the maintenance of its privileges; the stipulations of the Treaty of Union become futile and nugatory; the Peers of Scotland are stript of all protection and defence, though for their protection and defence alone was the election instituted, and the representation constructed. Now let this reasoning be rejected, under pretence that arguments from injurious consequences have no force in the interpretation of law; among the various aids for the construction of ambiguous laws, none is more important than the reasonable presumption that it is not the intention of the Legislature to enact absurdity, or to ordain injustice. The principle of this Article of the Treaty of Union, was to give a real and substantial representation to the Peerage of Scotland, in

the House of Lords of the Parliament of Great Britain. Every construction of it therefore ought to be rejected as repugnant to its intention and purpose, which tends to impair and destroy that representation, to reduce their right of suffrage to an illusion and a mockery, worthless as a compensation for the splendid rights which they have sacrificed; impotent as a defence for the slender privileges they have reserved; contemptible in value, and precarious in enjoyment.

2ndly, Because we conceive the case of those Peers of Scotland who were Peers of England before the Union, to furnish no valid or conclusive objection against these reasonings. Their full rights of Peerage in both Kingdoms are doubtless protected by the Treaty of Union, and their case is therefore excepted from the application of the general principles of representation to the elective Peerage of Scotland. To extend that excepted case to the present question appears only the last resource of a feeble sophistry, compelled to infer a rule from a deviation, and to erect an exception into a principle.

Because the Peers of Scotland made no effort against the defined and ascertained rights of a small body of men, it is not therefore to be presumed that they were to submit to that progressive diminution of their importance, and that possible final extinction of their privileges, which are sanctioned and established by the principle of the present decision. On the contrary, the language of the framers of the Union, uniformly discriminate between those who were Peers of England before that Treaty, and those who were created Peers of Great Britain after it, as distinct and separate bodies of men, who might enjoy different rights, and to whom different modes of reasoning might be applicable. Instead of multiplying instances of this discrimination, it is sufficient to produce the memorable and decisive example in 1708, when a sense of the distinction was so strong that the objection against the vote of English Peers at the Scotch election was abandoned as untenable, even by those who had urged it, while the objection to the same right of Peers of Great Britain was received as valid and conclusive by this House, and formed the basis of that solemn decision which till now has been the rule and guide of our proceedings.

3rdly, Because if the sense of the Treaty of Union had been

more dubious, and its construction on general principles more equivocal, we should still deem it to have been conclusively interpreted with regard to us, by the solemn decision and uniform practice of this House.

On the 21st day of January, 1708-9, it was resolved by this House, 'That a Peer of Scotland claiming to sit in the House of Peers by virtue of a patent under the Great Seal of Great Britain, since the Union, and who now sits in the Parliament of Great Britain, had no right to vote in the election of the sixteen Peers, who are to represent the Peers of Scotland in Parliament.' A decision which appears to us to contain a principle of the law of Parliament, respecting the Scottish Peerage, only inferior in force and authority to the express stipulations of the Treaty of Union itself. To so solemn a determination have been added all the weight and sanction which uninterrupted practice could bestow. Vainly will it be urged that the resolution of the 20th of December, 1711, impeaches the uniformity of this practice. The questions before the House in 1708 and 1711, were separate and distinct; but decisions cannot be contradictory unless they regard the same object, and pronounce differently on the same question. The Lords indeed who protested against the injustice of the last resolution, render due homage to the principle of that of 1708; and so uniform was the conviction of its justice, that Lords who suffered from the resolution of 1711, did at the election of Scotch Peers in 1734, claim their elective franchise on the sole ground and reason that they were deprived of their hereditary seats, these two rights being from authority and from reason, from usage and from principle, equally understood to be incompatible.

This principle of parliamentary law thus founded on reason, thus confirmed by decision and usage, is now subverted, and with it must perish all trust in the stability of the judgments of this House; consistency in determination and adherence to practice have ever prevailed in well-constituted judicatures; since uniformity in the application of law, is of the same importance to men with clearness in the law itself. This great principle so important in all judicatures, is of peculiar necessity in courts of high and extensive jurisdiction, where the errors of the judge are more fatal, and the temptation to the abuse of authority more strong. But it is above all indispensable in assemblies which mingle political

functions with judicial power. An immutable and inflexible consistency of decision can alone protect their honesty from their own infirmities, and their character from ignominy and general contempt. We have seen an assembly thus circumstanced, after having long adapted its fluctuating decisions to the varying interests of candidates or ministers, at length reduced to the humiliating necessity of making the confession of its own corruption the ground of resigning its rights of judicature. We are to dread that a similar instability of decision, likely to be the instrument of purposes equally ambiguous, may reduce the jurisdiction of this House to be an object of similar distrust, degradation, and contempt.

4thly, Because even if we had been convinced that the Treaty of Union was ill interpreted by the principle of its stipulations, by the opinion of its framers, by the solemn decision and uniform practice of the only tribunal competent to construe and apply it; we should still regard the retro-active effect of this determination as a flagrant act of injustice, and a gross fraud and delusion practised on the Peerage of Scotland. Under the faith and authority of resolutions of this House, transmitted to them as the rule of their conduct, did they at their last election vote: but these resolutions are now retro-actively rescinded. The compact of this House with those Peers who obeyed its injunctions is violated, and the claims of those who contemned them triumphant. A reward is granted to disobedience, while those who have been circumvented by our resolutions, into any trust in the faith, or respect for the authority of this House, find themselves disfranchised by their confidence, and punished for their obedience. No rule of action being derivable from fluctuating and contradictory decisions, there is now left no guide for the conduct of the Peers of Scotland, but the temporary caprice or the corrupt interest of Ministers, and majorities of this House, a condition of abject servitude little to have been apprehended for their posterity by the Scottish nobility, when they entrusted them and their rights to the good faith of a perpetual, predominant, increasing, and irresistible majority of Peers, over whom there existed not the check of common interest, and against whose decisions they left themselves without protection or defence.

James Maitland, Earl of Lauderdale.

CCCCXVIII.

JANUARY 31, 1794.

Thomas Muir, of Hunters Hill, was an advocate, who had taken part in a movement for amending the representation of the people in Scotland. He was charged on the 30th of August, 1793, with having advised and exhorted persons to purchase and peruse seditious and wicked publications &c., and after a trial of two days was convicted and sentenced to fourteen years' transportation. Muir was attacked at the trial with great severity by the Scotch Lord Advocate, Dundas of Arniston, and the prosecution was commented on with much asperity. The question was debated anew in the House of Commons on the 10th of March, and again in the Lords on the 15th of April.

Lord Stanhope moved that an address should be presented to the Crown, begging that Muir's sentence should not be carried out. But no one supported him, and his motion was negatived by 49 to 1.

He inserted the following protest.

1st, Because the attending to the due administration of justice, and the watching over the conduct of the various courts in this Kingdom, is one of the most important branches of the business of this House, and is at all times also one of its most essential duties.

2ndly, Because it obviously appears to be proper to examine into the justice and legality of a sentence, before it is executed, and not to permit it to be executed first, and then to examine into its justice and legality afterwards.

3rdly, Because for want of such timely interference on the part of this House, it has formerly happened, that, within a short time, no less than four unjust and illegal judgments were actually carried into execution, as appears from the respective attainders of the innocent sufferers having been afterwards reversed and made void (when it was too late) by four Acts of Parliament, made and passed in the first year of the reign of their late Majesties King William and Queen Mary, namely in the cases of Alderman Cornish, Alice Lisle, Algernon Sydney, and Lord Russel.

4thly, Because it is contrary to the first and immutable principles of natural justice, that any thing to the prejudice of a defendant should be brought before a jury in a criminal prosecution, that is 'only collateral, not in issue nor necessary in the conclusion.'

5thly, Because it is not (nor ought to be) competent for the prosecutor to produce any evidence to support any matter that is not charged in the indictment: that is to say, distinctly and precisely charged, and not by mere epithets or general words, such as oppression, sedition, vexation, or the like.

6thly, Because, in like manner it is not (nor ought to be) competent for a prosecutor to produce any evidence to prove any crime to have been committed by a defendant in any other particular than that wherein it is in the indictment expressly charged to have been committed.

7thly, Because no such proceedings as those above stated, nor any of them, can be justified under pretence, that 'If it had been necessary to specify in the indictment all the facts against the defendant, the indictment would have covered, by its magnitude, the walls of the court.'

8thly, Because in one year of the trial of Warren Hastings, Esq., namely in the year 1790, there were no less than four decisions of the House of Lords upon this subject, viz. on the 25th of February, when the Lords resolved, 'That the managers for the Commons be not admitted to give evidence of the unfitness of Kellaram for the appointment of being a renter of certain lands in the province of Bahar; the fact of such unfitness of the said Kellaram not being charged in the impeachment.' And again on the 4th of May, when the Lords decided, 'That it is not competent to the managers for the Commons to put the following question to the witness upon the seventh article of charge, viz. Whether more oppressions did actually exist under the new institution than under the old.' And again on the 18th of May, when the House of Lords resolved, 'That it is not competent to the managers for the Commons to give evidence of the enormities actually committed by Deby Sing; the same not being charged in the impeachment.' And again on the 2nd day of June, when the Lords resolved, 'That it is not competent for the managers, on the part of the Commons, to give any evidence upon the seventh article of the impeachment, to prove that the letter of the 5th of May, 1781, is false, in any other particular than that wherein it is expressly charged to be false.' The said decisions of the House of Lords are founded upon principles not peculiar to trials by impeachment. They are founded upon common sense,

and on the immutable principles of justice. In Scotland those principles are peculiarly necessary to be adhered to, inasmuch as by the laws of that part of the Kingdom, a defendant is obliged to produce a complete list of all his witnesses in exculpation, the day before the trial. That alone appears to me a considerable hardship. But if, after such list is actually delivered in by the defendant, any facts (or supposed facts) not particularly set forth as crimes in the indictment, may, on the following day, for the first time, and without notice, be suddenly brought out in evidence upon the trial against the defendant; such defendant, from such an entrapping mode of trial, may be convicted, although innocent. Such proceedings (whether supported or unsupported by any old Scotch statute passed in arbitrary times) ought, I conceive, to be revised. For, in a free country, there ought not to be one mode of administering justice to one man, namely, to Mr. Hastings, and an opposite mode of administering justice to another man, namely, to Mr. Muir.

Charles Stanhope, Earl Stanhope.

CCCCXIX, CCCCXX.

FEBRUARY 21, 1794.

The King informed the Houses that he had taken a body of Hessian troops into his pay, and that in order to prevent sickness, he had caused them to be disembarked on the Isle of Wight and at Portsmouth. In consequence on the 21st of February, the Earl of Albemarle introduced a Bill of Indemnity for such persons as had advised the King to do so unconstitutional, if not so illegal an Act. The debate on Lord Albemarle's Bill will be found in Parliamentary History, vol. xxx. p. 1424. The second reading was thrown out (by moving the previous question) by 89 to 12.

The following protests were entered.

1st, Because 'It is contrary to law for the Crown to keep an army in this Kingdom, either in time of peace or in time of war, without the previous consent of Parliament.' And it is essential, that this important constitutional principle (which was unequivocally admitted in the debate) should be for ever maintained inviolate in this country. And the friends of public liberty ought ever to bear in memory the admirable vote of the House of Commons, on the 5th day of May, 1641, when it was resolved, 'That this House doth declare, that whosoever shall give counsel

or assistance, or join in any manner, to bring any foreign force into the Kingdom, unless it be by command of his Majesty, with the consent of both Houses in Parliament, shall be adjudged and reputed a public enemy to the King and Kingdom.'

2ndly, Because the annual Mutiny Bill is a proof that the Crown cannot perpetuate or assume a prerogative, which Parliament annually bestows; nor exercise at its own discretion that power, which the Legislature specially limits.

3rdly, Because it is a most dangerous doctrine, that the Crown has a right (by virtue of an 'undefined prerogative') to do any act which is not warranted, either by common, or by statute law, under the frivolous pretence of its appearing to ministers to be useful. And the supineness of Parliament, in the reign of King James the Second, when so many Acts, notoriously illegal, were committed by the Crown, and yet passed unnoticed by the two Houses, clearly proves, that, from the want of vigilance in certain Parliaments, precedents may be established, subversive of the first principles of national freedom.

4thly, Because the maintaining of a foreign army on the establishment, or within the territory of this Kingdom, is in open defiance of the very Act of Parliament, which settles the Crown on the present royal family (namely the 12th and 13th of William III, chap. ii), which expressly enacts, 'That no person born out of the Kingdoms of England, Scotland, or Ireland, or the dominions thereunto belonging (although he be naturalised, or made a denizen, except such as are born of English parents) shall be capable to enjoy any office or place of trust, either civil or military.' And the Act of the 29th George II, chap. v. is a proof, that the Legislature deemed a special Act of Parliament necessary, to enable the King to employ even a limited number of subaltern foreign officers in America, only under certain restrictions and qualifications.

5thly, Because 'Foreign mercenaries have always been useless, or dangerous to those who employ them. Their conduct at first has generally been peaceable and ensnaring; at last, seditious and destructive. And those states, that have carried the points which they intended, by their assistance, have usually in the event, been enslaved by them.'

And 6thly, Because a prerogative in the executive power, to in-

introduce any number without limit, of armed foreign hirelings into any country, without the previous and express consent of the legislature, is totally incompatible with any form of a free constitution. For, not only that Government is tyrannical, which is actually tyrannically administered; but that Government also is tyrannical (however administered), where there is no sufficient security against its being tyrannically administered in future. And I solemnly protest against a measure, which tends to endanger the rights and liberties of my fellow citizens, of whom I consider myself only as a trustee.

Charles Stanhope, Earl Stanhope.

Because¹, (as it was in the debate unanimously admitted, *with the exception of one noble Lord, not one of his Majesty's ministers* that the keeping in this country troops, whether native or foreign, in time either of war or peace, without the consent of Parliament, is unconstitutional; and as it was also admitted unanimously and unequivocally, that the troops in question are here upon grounds of fitness and expediency; and as the consideration of fitness and expediency, though they render, and, in fact, in the present instance do render the measure not only justifiable, but highly meritorious, do in no degree so change its nature as to make it more or less constitutional) this Bill, though of a sort to be very sparingly adopted, yet was of particular propriety; for in a matter of great moment, it declared the law, saved the constitution, and did justice to the motives of the executive Government.

Because the stopping of this Bill leaves the troops here, without any consent of Parliament.

Because the effect of the declarations by which the right of the Crown so to keep troops here was disclaimed, however strong, general, and unequivocal, is yet transitory and fugitive; but the fact that troops are so here, is notorious and recorded; and when the motives which justified, and the declarations that reconciled to the House the measure are forgotten, may be drawn into precedent.

Jacob Pleydell Bouverie, Earl of Radnor.

¹ The words in italics were expunged by vote of the House on the 3rd of March.

CCCCXXI, CCCCXXII.

MAY 22, 1794.

On the 16th of May a report was presented from a committee of secrecy, touching seditious practices, and particularly those of the Society for Constitutional Information, and the Corresponding Society. In consequence Pitt moved for the introduction of a Bill suspending Habeas Corpus, and carried his Bill the same day by 146 to 28. A similar report was made to the Lords, and the Suspension Bill was read on the 22nd of May. It was carried the same day through all its stages.

The following protests were entered.

Because I abhor the idea of establishing a dangerous and unconstitutional system of letters of cachet in this country.

Charles Stanhope, Earl Stanhope.

1st, Because no evidence has been laid before us, that this Kingdom is at present in those circumstances of imminent danger and imperious necessity which alone, in our opinion, would justify even the temporary surrender of that sacred fundamental law which is the sole guardian of the personal liberty and security of our fellow-subjects. None of these circumstances, either of foreign invasion or of domestic insurrection, or of formidable conspiracy now exist, which induced our ancestors to commit their liberties to the perilous guardianship of a despotical authority. Instead of such an unequivocal public danger, which silences all deliberations and over-rules all laws, we are now required to vest an arbitrary power in his Majesty's ministers upon the authority of a detail of the offences of individuals or societies, whose strength and numbers are not proved to our apprehension to be such as would justify such a measure as the present, especially as the ordinary operations of the law are sufficient to check the spirit which is supposed to prevail. One of the worst effects of the conduct of these societies is, their having operated as the instrument for former artificial panics, and as a pretext for former measures, in our opinion the most hazardous and pernicious. They continued the same conduct without injury experienced by the public, without accession of strength, without the proof of any change in their systems or designs. We cannot therefore, without betraying the trust reposed in us, consent to resign the liberties of all our fellow subjects

to the discretion of the servants of the Crown, on no better ground than that of a catalogue of offences which have been long notorious to the whole Kingdom.

2ndly, Because even the proof that some individuals entertain those desperate designs which have been ascribed to them would not, in our opinion, form any justification of the present measure. From the Revolution to the complete defeat of the pretensions of the House of Stuart the wisdom of our ancestors did not deem the existence of a zealous, powerful, and indefatigable Jacobite party a sufficient reason, without overt acts of rebellion, or actual existing conspiracy, for subjecting the personal liberty of the whole Kingdom to the will of ministers. Miserable indeed, and precarious is our condition, if, at the pleasure of a handful of visionaries and incendiaries (characters which every age produces, and disguises which the agents of every government may assume), our liberties are to be laid under a legal interdict, and ministers are to be vested with an arbitrary power over the persons of all the freemen of this Realm.

3rdly, Because, even if the danger had been as real and imminent as is pretended, it might have been provided against by measures far less odious than that of depriving the subject of those rights of personal security which distinguishes the British Constitution beyond any other free Government, ancient or modern, and changing it for the time from a government of law to a government of will. One expedient, comparatively more moderate, is obvious, namely, to put the law respecting bail for misdemeanors which affect the state for a limited time on the same footing with bail in cases of treason.

4thly, Because this Bill appears to us, under a still more melancholy and alarming aspect, when we combine it with declarations which have been made by considerable persons during the dependance of this Bill. Even this, the utmost extremity to which our ancestors were ever driven, by the pressure of the greatest danger, is but the prelude to a system of measures (if possible) still more violent and arbitrary. These menaces, too forcibly illustrated by some past measures, in our opinion of a rigour equally impolitic and odious, fill us with the most melancholy apprehensions that designs are entertained by a progressive series of encroachments, to annihilate all the rights of English-

men, and to extinguish all the free principles of the British Constitution.

5thly, Because the precipitation with which this Bill has been hurried through the House is both indecent in itself, and directly repugnant to two standing orders of this House, one of the 28th of June, 1715, and the other of the 28th of April, 1699, standing orders which insure to this House the advantages of mature deliberation, and to the subject the invaluable privilege of petitioning against measures which, like the present, are subversive of his fundamental rights.

William Charles Keppel, Earl of Albemarle.

Francis Russell, Duke of Bedford.

James Maitland, Earl of Lauderdale.

Edward Smith Stanley, Earl of Derby.

CCCCXXIII.

MAY 30, 1794.

The following protest is the precise words of a motion made by the Duke of Bedford in the Lords, and subsequently entered in the general way. These resolutions had been previously submitted to the Commons by Fox, and had been rejected by a large majority. The resolutions were rejected in the Lords by 113 to 13.

1st, Because it appears to us that it would have been highly becoming and expedient for this House, as leading to the great and invaluable blessing of peace, at this time to have resolved, that it appears to this House, that during the several changes which took place in the Constitution and Government of France before the commencement of hostilities, and more particularly after the events of the 10th of August, 1792, when his Majesty was advised by his ministers to suspend all official communication with France, it was and continued to be the professed principle and policy of his Majesty's Government carefully to observe a strict neutrality, and uniformly to abstain from any interference with respect to the internal affairs of France; that when his Majesty was advised to make a further augmentation of his forces by sea and land at the beginning of last year, it was for the declared purpose of opposing views of aggrandizement and ambition on the part of France; and that when his Majesty acquainted Parliament that acts of hostility had been directed by the Govern-

ment of France against his Majesty's subjects, and after war had been declared against his Majesty and the United Provinces, the then avowed object of prosecuting the war on our part was to oppose the further views of aggrandizement imputed to France; and that the prosecution of the war on this ground, and for the attainment of this object, was approved by both Houses of Parliament.

2ndly, Because it would have been equally becoming and expedient in this House, as tending to the same desirable object of peace at this time, to have declared in conformity to the other resolutions openly discussed and submitted to its consideration.

That at or before the end of April 1793, the armies of France were obliged to evacuate Holland and Flanders, and to retire within their own territory; and that the Prince of Coburg, Commander-in-Chief of the Emperor's forces in Flanders, did on the 5th of April engage and declare that he would join and co-operate with General Dumourier to give to France her Constitutional King, and the Constitution which she had formed for herself; and that the Prince of Coburg did also then declare, on his word of honour, that if any strong places should be delivered over to his troops, he should consider them no otherwise than as sacred deposits; and that on the 9th of the same month, all the preceding declarations of the Prince of Coburg were revoked.

That by the fifteenth article of the Treaty concluded with the Landgrave of Hesse Cassel, on the 10th of April 1793, his Majesty's ministers were of opinion that the situation of affairs had then entirely changed its aspect, in consequence of which his Majesty might not have occasion for the Hessian troops, and might be at liberty to relinquish their service, on certain conditions of compensation to be made to the Landgrave.

That on the 14th of July 1793, a convention was concluded between his Majesty and the King of Prussia, in which their Majesties reciprocally promised to continue to employ their respective forces, as far as their circumstances would permit, in carrying on a war equally just and necessary.

That on the 23rd of August, 1793, Lord Hood declared to the people of Toulon, that he had no other view, but that of restoring

peace to a great nation, upon the most just, liberal, and honourable terms; that the inhabitants of Toulon did in return declare, that it was their unanimous wish to adopt a monarchical Government, such as it was originally formed by the constituent assembly in 1789; and that Lord Hood, by his proclamation of the 28th of August, accepted of that declaration, and did then repeat, what he had already declared to the people of the south of France, that he took possession of Toulon, and held it in trust only for Louis the Seventeenth.

That the Constitution to which the declaration and acceptance herein immediately before stated was the same which his Majesty's Ambassador at the Hague did, in a memorial presented to the States General on the 25th of January 1793, describe in the following terms; *videlicet*, 'It is not quite four years since certain miscreants, assuming the name of philosophers, have presumed to think themselves capable of establishing a new system of civil society. In order to realise this dream, the offspring of vanity, it became necessary for them to overturn and destroy all established notions of subordination, of morals, and of religion;' and that this description was applied by the said Ambassador to a Government with which his Majesty continued to treat and negotiate from its institution in 1789, to its dissolution in August 1792; and that his Majesty's Ambassador was not recalled from Paris until that Government was dissolved.

That by the declaration made by his Majesty's ministers, and dated on the 29th of October 1793, that his Majesty demands 'only of France, that some legitimate and stable Government should be established, founded on the acknowledged principles of universal justice, and capable of maintaining with other Powers the accustomed relations of union and peace;' and that his Majesty, in treating for the re-establishment of general tranquillity with such a Government, 'would propose none other than equitable and moderate conditions, not such as the expenses, the risks, and the sacrifices of the war, might justify;' and that his Majesty hoped to find in the other Powers engaged with him in the common cause, sentiments and views perfectly conformable to his own.

That at the commencement of the war, the prosecution of it was considered by his Majesty as a cause of general concern, in

which his Majesty had every reason to hope for the cordial co-operation of those Powers who were united with his Majesty by the ties of alliance, and who felt an interest in the same cause.

That in the prosecution of a war considered by his Majesty as a cause of general concern, and as a common cause, his Majesty has not received that cordial co-operation, which we were led to expect from those Powers who were united with him by the ties of alliance, and who were supposed to feel an interest in the same cause.

That on a review of the conduct of the several Powers of Europe, from whom, if the cause was common, and if the concern was general, such cordial co-operation might have been expected, that many of those Powers have not co-operated with his Majesty. That the Empress of Russia has not contributed in any shape to the support of this common cause. That the Crowns of Sweden and Denmark have united to support their neutrality, and to defend themselves against any attempt to force them to take part in this common cause. That Poland is neither able nor inclined to take part in it. That Switzerland and Venice are neutral. That the King of Sardinia has required and obtained a subsidy from Great Britain, to enable him to act even on the defensive. That the King of the two Sicilies, professing to make common cause with his Majesty, in the war against France, is bound to it by nothing but his own judgment in the course of events which may occur; and that he is at liberty to abandon the common cause, whenever he shall judge that he cannot any longer with justice and dignity continue the war; that the efforts of Spain and Portugal have been completely ineffectual. That with respect to the Powers who were principals in the present war; videlicet, the States General, the King of Prussia, and the Emperor, the States General having refused to contract for the payment of their portion of the subsidies to be paid to the King of Prussia beyond the term of the present year, have thereby reserved to themselves a right to withdraw from the support of the war at that period, and to throw the whole burthen of it upon Great Britain; that the King of Prussia being bound by the convention of July 1793, to act in the most perfect concert, and the most intimate confidence with his Majesty upon all the

objects relative to the present war, and having then promised to continue to employ his forces as far as circumstances would permit, in carrying on the war, and his Majesty having since been obliged by the Treaty of the 19th of April 1794, to grant to the King of Prussia an enormous subsidy in order to engage him to continue to co-operate in the prosecution of the war, it follows that the King of Prussia is no longer a principal party, nor even an auxiliary in the said war, but that he barely lends out his troops to this country in return for a most profitable pecuniary compensation at our expense, and that Great Britain is in fact loaded with his proper share of the burthen of a war which is said to be the common cause of every civilised State ; and finally, that if it were expedient or necessary to purchase the King of Prussia's co-operation on such terms, the Emperor, whose interests are more directly at stake, was full as much bound in reason and justice as his Majesty or the States General could be, to contribute equally to that expense ; and that if at any future period of the war, the Emperor's finances should be so exhausted as to make it impossible for him to maintain it on his part, at his own charge, his Imperial Majesty will be invited and encouraged, if not justified by the example and success of the King of Prussia, to call upon this country to defray the whole expense of whatever army he may continue to employ against the French ; nor does it appear by what distinction in policy or in argument, the terms granted to the King of Prussia can be refused to the Emperor, whose efforts and expenses in the course of the war have infinitely exceeded those of Prussia ; or how this country can, in prudence or with safety, decline a compliance with such demands, if it be true, as has been declared, that the destruction of the present French Government is essential to the security of every thing which is most dear and valuable to us as a nation. That in consequence of the events of the war on the continent and elsewhere, all views of aggrandisement and ambition on the part of France, supposing the French to entertain such views, are evidently unattainable, and must be relinquished by France ; and therefore the object of the war, as it was originally professed on our part, videlicet, the restoration of peace on terms of permanent security, is now attainable and may be secured, provided, that on one side the

French shall be content with the possession and safety of their own country, and that we, on the other, shall adhere to the principles of justice and policy, so often declared by his Majesty and avowed by his ministers, of uniformly abstaining from any interference with respect to the internal affairs of France.

3rdly, Because the facts hereinbefore set forth, being as we conceive undeniable truths fit now to be resolved and declared, it becomes the duty of his Majesty's ministers, in conformity to two other resolutions opened, discussed, and submitted to the consideration of this House, to avail themselves of the present circumstances of the war, to promote a pacification by every means in their power, by proposing to France equitable and moderate conditions of peace, and above all things by abstaining from any interference in the internal affairs of France.

4thly, Because in every possible case it is equally desirable that his Majesty should make an explicit declaration of his views; for if, on the one hand, it is the intention not to interfere in the internal Government of France, nothing can contribute so much to advance a negotiation with those who now exercise the powers of Government in that country; as such a declaration solemnly and explicitly made; so on the other hand, if it is intended to interfere, it is highly essential to make the degree of interference precisely known, so as to induce such parts of the French nation as are dissatisfied with the present Government, to unite and exert themselves with satisfaction and security to promote the ascertained object.

Charles Howard, Duke of Norfolk (Earl Marshal).

Edward Smith Stanley, Earl of Derby.

William Petty, Marquis of Lansdowne.

Augustus Henry Fitzroy, Duke of Grafton.

Francis Russell, Duke of Bedford.

Sackville Tufton, Earl of Thanet.

William Charles Keppel, Earl of Albemarle.

James Maitland, Earl of Lauderdale.

CCCCXXIV.

JUNE 17, 1794.

In 1755 Paoli was elected general of Corsica, and succeeded in liberating the island from the Genoese. In 1768 Choiseul purchased the island from the Genoese, though not without remonstrance from the European

powers, and Paoli, after a struggle, came to England, where a pension was given him. In 1790 Paoli, now on good terms with the French, reappeared in Corsica. After the execution of Louis XVI the island revolted, and declared Paoli generalissimo, when a force under Lord Hood was sent to assist the insurgents, and Bastia was taken. It was during these operations that Nelson lost an eye. The thanks of the Houses to Lord Hood were moved in the Lords by Lord Grenville and in the Commons by Dundas. The motion was carried in the Lords by 31 to 5.

The following protest was entered.

1st, Because it has not been the practice of this House to vote thanks to officers commanding his Majesty's forces by sea or land, except on occasions where they have eminently advanced the honour and promoted the interests of their country, by the most important and acknowledged services.

2ndly, Because by voting the thanks of this House, except in such instances, we diminish the value of the most honourable reward we have it in our power to confer, and lessen one of the best incitements to future service.

3rdly, Because the reduction of Bastia does not in itself appear to us to be such a service as calls upon this House for any extraordinary mark of approbation or applause.

4thly, Because, whatever the merit of that service may be, the other admirals of the fleet, and the commanding officers of his Majesty's land forces, must have had their share in it, and to refuse thanking them, as had been usual on similar occasions, appears to us to justify an opinion that the vote of thanks to Lord Hood originated from some motive of a private and personal nature, which it is improper for this House to countenance.

5thly, Because even ministers themselves do not seem, in the first instance, to have considered that service as entitled to such a mark of approbation; for though accounts have been received of the reduction of Bastia previous to those of the victory obtained by the fleet under the command of Earl Howe, no intention was announced of moving a vote of thanks to Lord Hood, till this House had paid the just tribute of gratitude and honour for that most important and splendid victory.

William Charles Keppel, Earl of Albemarle.

Edward Smith Stanley, Earl of Derby.

James Maitland, Earl of Lauderdale.

Sackville Tufton, Earl of Thanet.

Francis Russell, Duke of Bedford.

CCCCXXV.

JANUARY 6, 1795.

Lord Stanhope, as in the year before, brought a motion before the Lords, to the effect that this country ought not to interfere, and will not interfere in the internal affairs of France, and that it is expedient explicitly to declare the same. Lord Stanhope found no support in the Lords, the motion for adjournment being carried by 61 to 1.

Lord Stanhope entered the following protest.

1st, Because the motion made for the House to adjourn, was professedly intended to get rid of the following resolution, viz. 'resolved that this country ought not, and will not, interfere in the internal affairs of France: and that it is expedient explicitly to declare the same.'

2ndly, Because I hold that it is contrary both to equity and policy for any foreign country to interfere in the internal affairs or constitution of the French Republic or of any other independent nation.

3rdly, Because the Government of Great Britain (not having been elected by the citizens of France), can have no more right to give to France a monarchical, aristocratical, or other form of Government whatever, than the crowned despots of Russia and of Prussia had to overturn the free constitution of now unhappy Poland.

4thly, Because I heartily disapprove and reprobate the doctrine advanced by ministers in the debate, namely, 'That to restore the ancient and hereditary monarchy of France no expense should be spared.' And I reprobate that pernicious and uncivic doctrine the more strongly, from its not having been suddenly, hastily, or inconsiderably started; but from its having been taken up (as it was solemnly declared) 'upon the utmost deliberation.'

5thly, Because I deem it to be an injustice committed by ministers towards my fellow citizens, to adopt a principle which shall render it necessary for the Government of Great Britain to lay farther heavy burthens upon the people, and to tax their houses, their windows, their beds, their candles, their shoes, and many other conveniences and necessities of life, in order to provide a fund to attempt the accomplishment of such a wicked purpose as aforesaid.

6thly, Because the proposed resolution, above stated, was intended by me, as a solemn pledge, that the Government of this nation would not interfere in the internal affairs of France: but the refusal of the House to give such a pledge, tends to shut the door to peace, and consequently tends to insure the ruin of this manufacturing, commercial, and once happy country: particularly considering the increased, and rapidly increasing, strength of the navy of the French Republic, independently of the prospect there is of their having the navies of Holland and Spain under their immediate influence.

7thly, Because the public funds, the paper currency, and the public and private credit of this country, will probably be unequal to stand against the tremendous shock to which Ministers will now expose them.

8thly, Because I think that frankness, fairness, humanity, and the principles of honesty, and of justice, are always, in the end, the best policy; and I believe it to be true, in regard to nations (as well as with respect to individuals) that 'nothing that is not just can be wise or likely to be ultimately prosperous.'

9thly, Because I lament the more, that the House should refuse to disclaim the interfering in the internal constitution of France, inasmuch as by the new constitution of the French Republic, one and indivisible, adopted by the present National Convention, on the 23rd of June, 1793, and under the title of 'the relation of the French Republic with foreign nations,' and by the articles 118 and 119 of that Constitution, it is declared and enacted, that 'The French people is the friend and natural ally of every free nation. It does not interfere with the Government of other nations; it does not suffer that other nations should interfere with its own.' So frank, so fair, and so explicit a declaration on their part, did, in my opinion, entitle them to a better species of return.

10thly, Because I conceive that a true republican form of government being firmly established in France, is much more safe for the liberties of the people of Great Britain, than the tyrannical, capricious, perfidious, secret, intriguing, and restless ancient monarchy of France; or than any other monarchy they could there establish: but even if I were of a direct opposite way of thinking, I would not be guilty of the gross injustice

of attempting to force a monarchy upon them contrary to their inclination.

11thly, Because I think that no war ought to be continued, that can, by a proper line of moderation, be avoided; and the more especially with respect to the French people who, by their republican exertions, republican enthusiasm, and republican courage, have made victory the almost constant Order of the Day.

12thly, Because the continuing of such a bloody contest without necessity, appears to be a profane tempting of Divine Providence, in whose benign and almighty hands the fate of battles and of Empires is placed.

13thly, Because I wish to wash my hands entirely of the innocent blood that may be shed in this war with France; of all the carnage which may take place; and of all the destruction, confusion and devastation (perhaps in Great Britain itself), which may ensue.

14thly, Because it was my object to preclude the Government of Great Britain from attempting to stir up or incite insurrections in La Vendée, or any other department of the French Republic; and the resolution I moved was well calculated for that purpose.—
And,

15thly, Because the maxim of ‘do not to others that which you would not wish done to yourself,’ is an unerring rule, founded upon the clear principle of justice, that is to say, of equality of rights. It is upon this strong and solid ground that I make my stand: and all public men, in order to merit the confidence of the British people, must show their determination to act with frankness, and with unequivocal good faith and justice towards the French Republic.

Having upon this most important and momentous subject frequently stood alone; and having also been, upon this last occasion, totally unsupported in the division, if I should therefore cease at present to attend this House (where I have been placed by the mere accident of birth), such of my fellow-citizens as are friends to freedom, and who may chance to read this my solemn protest, will find that I have not altered my sentiments or opinions; and that I have not changed any of my principles; for my principles never can be changed.

And those fellow-citizens will also find that I hereby pledge

myself to my country, that I shall continue, what I ever have been, a zealous and unshaken friend to peace, to justice, and to liberty, political, civil, and religious; and that I am determined to die (as I have lived) a firm and steady supporter of the unalienable rights, and of the happiness of all mankind.

Charles Stanhope, Earl Stanhope.

CCCCXXVI.

FEBRUARY 3, 1795.

During the year 1794, Mr. Walker of Manchester and others were put on their trial for a conspiracy to overthrow the government and constitution. They were acquitted—one Dunn, a principal witness for the Crown, having been plainly guilty of perjury in his evidence. Other trials, in some of which the Crown gained a verdict, in the majority of which it was baffled, took place in other parts of England. But the most important trials were those of Hardy, Horne Tooke, Bonney, and others in London, before Chief Justice Eyre and five other judges. These persons were defended by Erskine and Gibbs and were acquitted. See Howell's State Trials, vols. xxiv, xxv. But early in the Session of 1795, the government applied for a continuance of the suspension of Habeas Corpus. It was brought into the Commons on the 15th of January, and was carried through every stage by large majorities. The debate in the Lords took place on the 3rd of February, when Lord Guilford moved the rejection of the Bill on the third reading. It was however passed without a division.

The following protest was inserted.

1st, Because, whatever pretence there may have existed in the last Session of Parliament for suspending the Habeas Corpus Act, that pretence is now removed: the partial *ex-parte* examinations of the Committees of Parliament, having been refuted by the verdicts of juries, who with labour unexampled in the legal annals of this country, after duly weighing the evidence of both sides, acquitted the persons indicted for a treasonable conspiracy.

2ndly, Because intentions hostile to the Constitution being entertained by persons, few in number, and devoid of weight and consequence in the country, do not justify the depriving all the people of Great Britain of that security which our laws so anxiously provide for personal liberty.

3rdly, Because we find that, as soon as those plots and conspiracies (which have heretofore caused the suspension of the people's right to their Habeas Corpus) had been dealt with ac-

ording to law, and that the conspirators had been convicted and punished, the danger being over, the suspension has dropped. In the same manner, when the proved innocence of the accused has negatived the supposed conspiracy, and when it is not even pretended that any new or other plot exists, to continue to suspend this great and essential safeguard of our freedom is equally contrary to the example set us by our ancestors, and inconsistent with that protection, which, as legislators, we are bound to afford to the personal security of all our fellow-subjects.

4thly, Because we consider that the national spirit of English freedom, to which was owing the high place that we once held amid surrounding nations, is either checked or deadened by causeless acts of despotism; or that the disgust, necessarily generated by such a conduct, is likely (if any thing can produce such an effect upon this free and enlightened nation) to raise a spirit of disaffection even to the Constitution itself.

5thly, Because when we trace the history of the Habeas Corpus Act, we find, among other securities from oppression, it was chiefly meant to insure to the subject a speedy trial, when accused of treason or treasonable practices, and to avert the tyranny of tedious imprisonment for those crimes. We conceive therefore, that if the Legislature is, upon all occasions of suspicion of traitorous acts to suspend the operation of that most important and invaluable statute, security to the subject must be removed, at the very crisis, and in the very case, when it was meant by the wise and enlightened framers of that law most to shield and protect him.

Charles Howard, Duke of Norfolk (Earl Marshal).

Francis Russell, Duke of Bedford.

James Maitland, Earl of Lauderdale.

George Augustus North, Earl of Guilford.

CCCCXXVII.

FEBRUARY 12, 1795.

A motion was made in the Lords on this day, to the effect that the actual situation of the governing powers in France ought not to preclude the conclusion of a speedy peace, if peace can be had on terms which are in themselves just and reasonable. In other words, the motion intended to pledge the Lords not to decline treating with a Republic, and there-

fore to abandon the attempt to restore the Monarchy in France. The motion was lost, after a long debate, which is not recorded in Hansard, and the following protest is inserted.

Because we conceive the repeated declarations made in the name of the King, and the resolutions come to by this House, are, as they now stand, an effectual bar to all negotiations with the present Government of France, which can alone be removed by a resolution of a similar nature to that avoided by the previous question, and which has become the more necessary from the declaration of his Majesty's Ministers in debate, that the Government of France is of such a character, as to preclude the possibility of treating, so long as they shall continue to act on their present principles; a declaration which we conceive to convey little less than a determination to carry on the war on such principles, that it can only be terminated by the destruction of one or both the nations.

Francis Russell, Duke of Bedford.

James Maitland, Earl of Lauderdale.

George Hobart, Earl of Buckinghamshire.

George Augustus North, Earl of Guilford.

CCCCXXVIII, CCCCXXIX.

MAY 8, 1795.

On the 10th of December, 1794, Earl Fitzwilliam was appointed Lord-Lieutenant of Ireland, with a view to conciliate the Irish people. The appointment of Lord Fitzwilliam was popular with all parties in Ireland, and especially with the Roman Catholics, whose claims to emancipation he was known to endorse. Immediately on the meeting of the Irish Parliament, Grattan brought forward an Emancipation Act, and pressed it. Lord Fitzwilliam, though he deprecated hasty measures, assured the leading Catholics of his sympathies. The two Irish Houses voted their confidence in the Lord-Lieutenant, but he was suddenly recalled, leaving Ireland on the 25th of March. A debate on the motion for papers and correspondence relating to Lord Fitzwilliam's recall was opened by the Duke of Norfolk. The motion was negatived by 25 to 100. See Stanhope's *Life of Pitt*, vol. ii, chap. xx; Lord Fitzwilliam's *Letters to Lord Carlisle*; *Lecky's Life of Grattan*.

The following protests were inserted.

1st, Because the removal, in the midst of a Session of Parliament, of such an officer of the Crown as a Lord-Lieutenant of Ireland, the immediate and sole representative of Majesty in that Kingdom, under the circumstances, is singular, perhaps unprecedented. The

effects of that bold and unusual measure, especially in the present critical state of affairs, cannot be indifferent. It is a fact notorious, and not contradicted, that the House of Lords and House of Commons in that Kingdom, did at the moment of his recall, directly and explicitly, in a solemn vote and resolution of each House, declare their confidence in the Lord-Lieutenant. It is a fact equally notorious, and equally uncontradicted, that these votes of confidence from both Houses of the Irish Parliament were in perfect conformity to the opinions and wishes of all descriptions of the people of that nation.

2ndly, Because a strong charge of malversation in office, supported by clear proof or strong presumption, ought to be produced to weigh against those solemn testimonies of a Parliament, and those declared opinions of a people, and to justify a proceeding, the inevitable tendency of which is, to produce dissatisfaction and discord amongst his Majesty's subjects in that Kingdom. That the proceeding itself is within the prerogative, there is no doubt; but there is no doubt also that this House is competent to an inquiry into all advice given to the Crown with regard to the use of that prerogative; and that it is its duty to make such inquiry in any event by which his Majesty's honour or interest, or the tranquillity, concord, and union of his empire, and its common effort against its common enemy, may be affected.

3rdly, Because, as the Peers are bound for their own honour to examine with a more strict scrutiny into the conduct, and to animadvert with greater severity on the misdemeanors of their own body, so they owe a peculiar protection to such Peers, as, on inquiry, they shall find, in the exercise of the high prerogatives of the Crown, to have demeaned themselves uncorruptly, to the satisfaction of the people, with a diligent attention to the functions of their charge, and with duty, zeal, and fidelity to their sovereign.

4thly, Because Earl Fitzwilliam, the Lord-Lieutenant, removed in so unprecedented a manner, did voluntarily solicit in this House the production of all such documents as might furnish matter for a full and impartial inquiry into his conduct; that as the case might appear, he might subject himself to the animadversion, or entitle himself to the protection of this House. No valid reasons for secrecy have been alleged. Delinquency is no proper object of secrecy on the one side or the other: nor can any depending measure of

government be affected by a disclosure of that delinquency. The act is executed. If these vague general allegations of secrecy may be urged to prevent inquiry, Peers may be affected with suspicions utterly ruinous to their reputation with regard to the matters of highest trust, without any possibility of clearing themselves.

5thly, Because it appeared in the course of the debate, without any attempt to contradict it, that the Earl aforesaid did actively and effectually promote the service of the Crown, and the public interest in Ireland, by encouraging through all fitting means, and discouraging by none, the zeal and affection to his Majesty of his Parliament of Ireland; by obtaining, without delay, and with great unanimity, a vote of more than forty thousand men; by which the internal force of that Kingdom was more than doubled; and by obtaining also a vote of two hundred thousand pounds for the better manning the navy of Great Britain—the first vote of the kind in the present war, and double to the sole example of the supply of the same kind, voted in the Irish Parliament in the year 1782, as an acknowledgment of the vast and important concessions in legislation, commerce, and judicature, then made by the Parliament of Great Britain; both those supplies to the service of Great Britain, were moved by Mr. Grattan confidence in whom, has been imputed as blame to Earl Fitzwilliam; though in the debate nothing was alleged to show that this distinguished person, called to his confidence and councils, had ever, during Lord Fitzwilliam's government, made any other use of the estimation in which he is held in his country, than to perform this, and other similar services to his Majesty's Government; and to reconcile the minds of his fellow-subjects of that Kingdom, to bear the burthens brought on by these services with cheerfulness, and to co-operate with alacrity and unanimity in every means of giving them their full effect.

6thly, Because it does not appear that the Earl in question, during his administration in Ireland, did in any degree, or in any manner, subvert, impair, or weaken any one of the legal prerogatives of the Crown, or abuse them to the prejudice of the subject, in any instance whatsoever. That in the arrangements proposed with regard to office, either in removals or appointments, it does not appear that the efficacy of his Majesty's Government, or the popularity of his Majesty's measures, were at all impaired; or the unanimity and harmony of the nation disturbed; or the confidence

in his Majesty's Government, as administered by him, in any degree whatsoever, lessened. To the great objects of government all official arrangements ought to be subservient; and by their effects on those objects it is to be determined whether the discretionary powers with regard to official arrangements necessarily invested in his Majesty's Ministers, have been in any instance properly or improperly performed.

7thly, Because the unanimity and zeal in his Majesty's service, which appeared throughout that Kingdom, was owing to the hope held out that such arrangements as the late Lord-Lieutenant proposed, would take place, namely, such as tended to demonstrate that those in whom the nation reposed much confidence, had obtained the confidence of his Majesty's Chief Governor, and that those who had the misfortune not to obtain the public confidence, or at least not to obtain it in the same degree, were not to be predominant in the efficient offices in the Kingdom.

8thly, That it did not appear in the debate, that incapable or obnoxious men, or men of no lead or importance in their country, and therefore unqualified for rendering effectual service to his Majesty, were the objects of choice in those arrangements.

9thly, Because it did not appear in the debate, that any harsh or vindictive spirit was manifested in any proposed removals: as the most large and liberal consideration was observed to the dignity, the feelings, and the interests of the parties concerned.

10thly, Because it did not appear in the debate that this provision was considered in the light of a corrupt and prodigal bargain; but that the people at large regarded it in a contrary light: it appears, that the estimation of that government was rather increased than impaired by the whole of those intended measures; and it is asserted and supported by abundant proof, that the defeat of those arrangements, with all their consequences, has excited a considerable discontent amongst the people of Ireland.

11thly, Because the persons who, on account of their general estimation in their country, were taken into the confidence of the late Lord-Lieutenant, had, previously to his government, given the most striking and unequivocal proofs of their attachment to Great Britain, of their power of subduing their own private feelings; and of sacrificing to his Majesty's service no small part even of their known animosities upon public differences, by supporting, out of office and

out of confidence with the then rulers, the cause of British Government in a very marked and distinguished manner.

12thly, Because it appeared in the debate, that one of the matters of discussion between his Majesty's confidential servants in England and the said Lord-Lieutenant, had arisen on occasion of a Bill intended to be introduced into the Parliament of Ireland by Mr. Grattan, 'For the farther relief of his Majesty's Catholic subjects in that Kingdom.' Of subjects to be agitated in the Parliament of that Kingdom, this House can take no cognizance; but they may take cognizance of the conduct of a British Peer, member of this House, and representing his Majesty, for his conduct in his Majesty's service, in any part of his dominions. If the late Lord-Lieutenant gave countenance to any measure repugnant to that service, and in defiance to that authority, and positive instructions given by his Majesty's Ministers here, it forms a matter of constitutional discussion in this House. Upon that point Earl Fitzwilliam has alleged, that he is ready to put himself upon the judgment of this House; for he contends that the motion for leave to bring in such a Bill (which he admits to have been made at his express desire) did not afford cause of alarm or apprehension in any manner whatever. He contends, that the principle of such a Bill was highly conformable to other former proceedings known to be countenanced by his Majesty's Ministers; nor does it appear by any thing alleged in the debate, that the countenance understood to be given by the late Lord-Lieutenant for a further relief, could be a just ground for his removal; when a recommendation from the Throne itself, by his predecessor the Earl of Westmorland, in the year 1793, for advantages of infinitely greater extent, that is to say, a general capacity for all offices and franchises (about thirty offices, and seats in Parliament only excepted) has been made matter of merit.

13thly, Because it appears for several years past to have been the policy of his Majesty's British councils with regard to Ireland, and of the Parliament of that Kingdom, to remove the several civil restraints which had been made in consequence of religious differences; for all offices had been opened to Protestant dissenters, without any limitation whatever, by the repeal of the test in that Kingdom, in the year 1779, 19 and 20 of his Majesty, chap. 6. From those dissenters no test whatever was exacted, in lieu of that from which they were exonerated. But for the Catholics, by an

Act of the 13th and 14th of his present Majesty, chap. 34, a test oath was proposed, for ascertaining the allegiance and fidelity of Catholics, as such. About four years after, that is, in the years 1777-8, 17th and 18th of George III, chap. 49, in consequence of this oath, a strong legislative declaration was made, in which the principle, which had been gradually followed up by subsequent acts, is strongly and decidedly affirmed; for the preamble of that act, after stating certain penalties and incapacities under which the Catholics did then labour, thus proceeds: 'Whereas, from their uniform peaceable behaviour for a long series of years, it appears reasonable and expedient to relax the same; and it must tend, not only to the cultivation and improvement of this Kingdom, but to the prosperity and strength of all his Majesty's dominions, that his subjects of all denominations should enjoy the benefits of our free constitution, and should be bound to each other by mutual interest and mutual affection.' Soon after, that is, in the 21st and 22nd of his present Majesty, chap. 24, it was again declared, that the Catholics, on taking the test oath aforesaid, 'ought to be considered as good and loyal subjects to his Majesty, his crown, and government; and that the continuance of the laws formerly enacted, and then in force, against persons of the Popish religion, is therefore unnecessary in respect to those who have taken or shall take the said oath, and is injurious to the real welfare and prosperity of the Kingdom of Ireland.' Nothing can be more clearly laid down than the principle upon which the several acts of relief from the first year of relaxation, virtually beginning so early as the year 1773, twenty years before the passing the large Capacitating Act of the year 1793, was grounded, namely, the recognized allegiance, and reciprocal right to protection, held out upon taking this and other test oaths. It was plain that the policy of the legislature was to affirm the principle as largely as possible, and to make the capacities follow (as they have practically followed) gradually, according as favourable occasions should offer. These acts have always been understood to have emanated originally from his Majesty's gracious disposition, and to have proceeded to the Government of Ireland, through the British Cabinet. If these tests could not be deemed a security in the reserved cases, it is impossible to assign a reason why they were deemed a security in the hundreds of others, to which a capacity was opened by the Act of 1793. The incapacitating

reserves in the Act of 1793, like those of the former acts, proceeding (though more slowly) upon the same declared policy evidently were not made upon their own declared principle. They were made in the regular progress of a system of enlargement, in order to compromise with the spirit of monopoly. But, it is asserted by Earl Fitzwilliam, and nothing without inquiry can effectually contradict the assertion, that, whilst in reality the restrictions gave satisfaction to none, they caused discontent in many. The Protestants regarded these exceptions with total indifference. The Catholics looked on them as signs of suspicion and degradation; they considered them as marks (contrary to the declared policy of the acts) contrived to be set upon them by their enemies, to distinguish them as bad subjects, and bad citizens. The proceedings of their enemies leave in their minds no doubt, that these tokens of reprobation are kept as pretexts for affronts, contumelies, and injuries of all kinds; and for practically depriving them of most of the benefits of those capacities which the law seemed to hold out to them.

14thly, Because it is alleged, that a Bill for further relief was publicly known, as likely to be in agitation before the departure of the Lord-Lieutenant from England; that he had no instruction whatever directly to oppose it, though an opinion was expressed, that it had better be delayed for a time of greater tranquillity; but the expediency of giving support to it was a matter left to his discretion, as, in the nature of things, it necessarily would be, on any subject, the principle of which was admitted, the fitness of the time being the only point of doubt, and which could only be decided by existing circumstances.

15thly, Because it is offered in proof, that the late Lord-Lieutenant was diligent in the search, and prompt in the communication to Ministers of every information on the subject. That he soon found that all hope of putting off the question was impracticable—that he had reason to think the present time for carrying the principles of the Act of 1792 and 1793 to their full object, to be, of all others, most favourable—that he found the relief to be ardently desired by the Catholics, to be asked for by very many Protestants, and to be cheerfully acquiesced in by almost all—that this circumstance removed the difficulties on which the postponing the question could alone be desired—that he found the delays had created

much suspicion and uneasiness amongst the Catholic petitioners, who were numerous almost beyond all example—that he found a Bill on those petitions would infallibly and speedily be brought into Parliament, and that many members were desirous to introduce it; and if this were the case, the measure might come into hands with which neither he nor the King's Ministers had any connexion, which would leave with Government only the disagreeable part of altering or of modifying, if any alteration or modification had been thought necessary by the British Government depriving his Majesty thereby of the whole grace and effect of what was done; that in this unpleasant situation he sent for Mr. Grattan, and desired him, as a person in his confidence, and who would act on the occasion according to what he and the Ministers in their prudence might suggest. That Mr. Grattan did consent, and did, at his desire, move for leave to bring in a Bill for the further relief of the Roman Catholics. That the motion for leave was received with little discussion, and without any division. That no Bill on the subject was in fact brought in—and that Ministry were informed, that none would be brought in without their knowledge; nor until of late, and after Lord Fitzwilliam's departure, was such a thing attempted. That the then Lord-Lieutenant communicated largely all his ideas on the subject. That whilst the proposed Bill was not yet introduced into the House of Commons, and whilst he was obeying their instructions, with regard to informations and opinions, he was suddenly removed, with the strongest marks of displeasure and disgrace. That on this state of things, no sufficient reason appears to exist, in this measure, any more than in the business of arrangements, for the unusual and alarming step of disgracing a Lord-Lieutenant in the middle of a session of Parliament, in which the business of his Majesty, and of the whole empire (as far as that Kingdom could operate in it), was carried on with unusual unanimity and success, and with a very great concurrence without doors of all orders and descriptions of men. It is a step for which, on the debate, nothing was said to make it appear justifiable, and to render an inquiry concerning it unnecessary.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).
William Wentworth Fitzwilliam, Earl Fitzwilliam.

And the said Earl Fitzwilliam, moreover protesting for himself,

and on his own part, declares, that this House refusing such necessary investigation, he doth conceive and feel himself injured and oppressed as a British subject, as a Peer of Great Britain, and as a person who has exercised an high and very responsible trust under his Majesty. That he is not content merely to prove his innocence—that he was, and is, ready to make it appear to the House, and to his country, that in that trust he has acted faithfully, zealously, affectionately, dutifully, and diligently towards his Sovereign—that he has acted with attention and practicability towards his colleagues in office—that he has acted with an enlightened regard to the true interests of the nation, which, under his Majesty's authority, he was appointed to govern—that he stands upon the merit of his measures, and the prudence of his arrangements; that by them confidence was recovered to Government—that he stands for the justice and the policy of removing the few, feeble, miserable, inefficacious, but invidious restrictions that remain on the Catholics of Ireland, as wholly useless for any good purpose, but powerful in causing discontent, both with regard to Government and Parliament; as furnishing handles of oppression to the malevolent, and as supplying pretexts for disorders to the turbulent and seditious—that he should have shown a degree of incapacity, wholly to unfit him for his arduous trust, if he had acted on an idea, that the politics of this time, or that the present or probable future interests of states, do at all depend upon questions, whether of doctrine or discipline, either as agitated between Catholics and Protestants, or as agitated by Protestants amongst their several subdivisions. The Church and State have enemies very different, and infinitely more formidable, than any which have their origin in any religious parties. He has for some time been persuaded, but most clearly so since he went to Ireland, that, by good management, the dangerous principles and tempers of the times, which have another and more recent origin, may be kept from taking root either in the Church of Ireland, there happily established, or in the Presbyterian Church in communion with that of Scotland, or in the Church of the old natives of Ireland, communicating with that of Rome; or in any other religious sect whatever: but that through intemperate, vexatious, corrupt, or oppressive conduct, every one of these descriptions may be infected with this evil, in greater or lesser degree of extent and malignity, according to the degree of

oppression or indiscretion with which they are severally treated. He was, and is, convinced, that the best mode of resisting this reigning danger, either from within or from without, is not to be found in a plan for reviving, by art and influence, prejudices and heartburnings expired, or ready to expire, or of sowing the seeds of eternal discord and division between the people. During his government he had nothing to complain of the disposition of any religious description as such ; and his principles of government led him to cultivate the union which he plainly saw of itself commencing between them. It was his constant endeavour, by every means, to combine the minds of every sort of men, Churchmen, Presbyterians, and Catholics, of every the least proportion of education, talent, influence, or property, in affection to their common Sovereign ; to combine them in one bond of common interest, and in one common effort against our common enemies, the known enemies of all religion, all law, all order, and all property. He has had the happiness of seeing all this completely accomplished. . An unexampled concord amongst the people ; an unexampled zeal for the support of the Crown had taken place. But he is not responsible for the effects of a system, which proceeds in a contrary direction to that which he pursued ; he is not responsible for the effects of a system which supports men in whom the public has little confidence, and contumeliously rejects the service of those who have obtained the good opinion of their country—a system which endeavours to supply a comparative defect of ability, by an unmeasured increase of influence—a system which rejects the opinion and information of persons in high and responsible situations, and listens to the interested representations of subordinate office—a system which, inverting the whole order of things, introduces anarchy into the very seat of government, by publicly and avowedly supporting the instruments against the agent—a system which, finding the body of the people disposed to look to the Crown as their security against oppression from domestic factions, employs all its influence, power, and authority, to support those very factions against the people who fly for refuge to the Crown. For the opposite system he has suffered the unparalleled mark of displeasure which has been shown to him. He is willing to suffer more, rather than abandon it. He will remember, with a warm and lasting gratitude, and a cordial attachment, the weighty persons in Parliament, and all the

respectable bodies and individuals by whom he was generously encouraged, and honourably supported in a different plan of government, from that which derives its support from the corruption of one part of the people, and the depression of the other.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

CCCCXXX.

MAY 28, 1795.

The Artillery Augmentation Bill, 35 George III, cap. 83, facilitating the enlistment of militiamen in the Artillery and the Navy, was passed on the 28th of May.

It elicited the following protest.

1st, Because the honourable footing upon which the militia was established, and has hitherto subsisted, is, as far as relates 'to the augmenting the Royal Artillery,' undermined by this Bill, inasmuch as it makes the militia a fund for the supply, and a drill for the accommodation of another corps, inasmuch as it reduces this constitutional force below the numbers covenanted by the country to be always kept complete; and inasmuch as it supplies the deficiencies it creates, not in the regular and creditable manner by which the militia is constitutionally to be supplied, and supplied to a certainty, but by the means, uncertain in their operation, by which it is constitutionally provided in express terms that it shall not be supplied.

2ndly, Because upon the allegation of the present conjuncture, it establishes this measure without any express period to its duration, and without any clause against the precedent.

3rdly, Because at a moment when the temper of the times, and our personal knowledge of late events in some corps, seem particularly to recommend a vigilance in the preservation of discipline and subordination, this Bill, in a most extraordinary and unprecedented manner, relaxes the authority of the commanding officers over the objects of it, by suggesting to the latter a method which at any time, and on any motive, 'entitles them to their discharge.'

4thly, Because the several circumstances of disappointment as to the strength of their regiments, and of degradation by the involuntary removal of their selected and most instructed men, by the replacing of them in a less certain and less creditable manner, and

by converting the regiments into a recruiting fund for another corps, form an impolitic and undeserved return to such militia officers (and it has been admitted in the debates on this Bill that there are many such) as have merit with the public; and I conceive it the more necessary to mark my disapprobation, and express my apprehension of the consequences of this innovation, as I know the militia contains a fund for recruiting not only the artillery but every other corps in His Majesty's service, much too good not to be ardently coveted, and (however the intention be disclaimed at present) I fear resorted to (as I am sure it may be upon the same reasoning), when Parliament shall have once notified the principle of making the militia subservient to the efficiency of other corps.

Jacob Pleydell Bouverie, Earl of Radnor.

CCCCXXXI.

NOVEMBER 13, 1795.

On his going to Parliament to open the Session on the 29th of October, an angry crowd surrounded the King's carriage, with shouts of 'Bread,' 'Peace,' 'No Pitt,' 'No War,' 'No Famine,' and 'Down with George.' When the King, going from Buckingham House, was opposite the Ordnance Office, a stone or shot or, as some said, a half-penny passed through the windows of the carriage. On the King's return, he was still more grossly insulted. See Lords' Journals, vol. xl, p. 514, for evidence as to what happened. A proclamation was issued on the 31st of October, offering a reward of £1000 for the discovery and conviction of each and all persons guilty of the outrage. A Bill was also brought into the Lords, founded on the precedents of the treason Bills in the reigns of Elizabeth and Charles II. The Bill was opposed at every stage in the Lords, but was carried by large majorities. It passed the Commons also on the 30th of November, by large majorities. It is 36 George III, cap. 7, the Seditious Meetings Bill being cap. 8. The debate on the Bill was memorable for the passage of words between Lord Lauderdale and Bishop Horsley.

The following protest was inserted.

1st, Because we conceive this Bill to be founded on a false pretence. It recites a daring outrage on his Majesty's person (which we feel with the utmost horror), and purports to provide farther remedies against such practices, whilst, in reality, it affords no additional security whatever to his Majesty's person, and leaves us to regret a deep and irreparable injury to the laws and con-

stitution of our country, by making the compassing, imagining, inventing, and devising the levying war a substantive treason; thereby departing in a most dangerous and unjustifiable manner from the statute of the twenty-fifth of Edward III: the salutary provisions of which we cannot be tempted to abandon, by the example of temporary statutes, whose doubtful policy stands in opposition to a law, in which the wisdom of our ancestors has been so repeatedly recognised by the Legislature, and so strongly confirmed by the permanent experience of its benefits.

2ndly, Because the free discussion of the administration of Government in all its branches, by writing, speaking, and meeting, for the purpose of representing grievances to any of the three branches of the Legislature has afforded the best protection to the liberties of the people, and is the undoubted inherent right of Englishmen. Yet this Bill erects into a high misdemeanor the exercise of this most valuable privilege, and inflicts, in certain cases, the pains and penalties of transportation for the offences which it creates, a punishment in the case of misdemeanors, thus generally constituted, as unprecedented in the history of our laws, as it is unnecessary and unconstitutional.

3rdly, Because the extension of the treason laws, and the creating new misdemeanors, is an alarming encroachment on the security of the subject, and affords no additional protection to his Majesty's person and Government; for the state of every king, ruler, and governor of any realm, dominion, or commonalty, standeth and consisteth more assured by the love and favour of the subjects towards their sovereign, ruler, and governor, than in the dread and fear of those laws with rigorous pains and extreme punishments, which have at times disgraced our code. History, however, shows us, that by succeeding Legislatures, our statute-book has, with every mark of generous indignation, been uniformly cleansed of these temporary and unconstitutional excrescences, a circumstance which we now regard as a solemn warning against creating new and unheard-of misdemeanors, or altering the treason laws of our country.

Francis Russel, Duke of Bedford.
Edward Smith Stanley, Earl of Derby.
James Maitland, Earl of Lauderdale.

CCCCXXXII, CCCCXXXIII.

DECEMBER 14, 1795.

The Seditious Meetings Bill, 36 Geo. III, cap. 8, was vigorously debated both in the Lords and Commons, though the minority in both was small; for in the Lords the third reading was carried by 107 to 18; Lord Thurlow being in the opposition. Many petitions were presented against it.

The following protests were entered.

Because to present petitions to the Throne and the two Houses of Parliament has at all times been the undoubted right of the subjects of this realm; the free and unlimited enjoyment of which was one of the many blessings restored by the Revolution, and invariably continued in its fullest extent, as well during times of internal commotion, as of external danger: we therefore cannot consent to a Bill which thus fetters the rights of the people, and imposes restraints on that freedom of speech, to the existence of which the preservation of all our liberties may be ascribed, and from the full, free and continued exercise of which is derived the manly character that distinguishes a free people.

Charles Howard, Duke of Norfolk (Earl Marshal).

William Charles Keppel, Earl of Albemarle.

John Howard, Earl of Suffolk and Berkshire.

James Maitland, Earl of Lauderdale.

William Petty, Marquis of Lansdowne.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).

Edward Smith Stanley, Earl of Derby.

Francis Russell, Duke of Bedford.

John Howe, Lord Chedworth.

1st, Because, though we cordially agree in the above ground of protest, yet we think it farther necessary to state, that although the Bill industriously displays the acknowledged right of Englishmen, a right essential to a free constitution, of deliberating on grievances in Church or State, and of preferring to the King and each House of Parliament, petitions, complaints, remonstrances and declarations thereupon, yet it proceeds to lay the whole exercise of that important and sacred privilege under a restraint and discountenance, which directly and absolutely annihilates the right. The very proposition of any matter which shall tend to incite or stir up the people to hatred or contempt of the

government and constitution of this realm, as by law established, makes the assembly liable to be dispersed by any one justice of the peace, under the pain of felony, without benefit of clergy, if any twelve remain together an hour after proclamation, even though they should not proceed on the prohibited business. Nay, if one justice shall think fit to arrest any person holding any discourse to the above effect, to be dealt with according to law, and shall meet with obstruction, whether the orator and obstructor be suborned or not, the whole assembly is liable to be treated in this harsh and unprecedented manner. Now the case to which these terrible consequences are attached, is unavoidable, being a necessary incident to the exercise of the right; for no grievance can be made the subject of deliberation, much less of complaint and remonstrance, without drawing down upon it that odium which its injurious tendency, or that contempt which its absurd incongruity may seem to merit: that is, without representing it as a grievance. So that an occasion, even without straining, can never be wanting to suppress the exercise of this franchise.

2ndly, Because the severe provisions of this Bill not only apply to all assemblies convened by the exertions of private subjects in the manner expressly claimed for Englishmen by the Bill of Rights, but to all the other assemblies mentioned in the Act, as appears from a consideration of the following words—‘Such meeting or assembly, as is hereinbefore mentioned, to which every justice of peace is authorised and empowered to resort with any number of constables, or other officers of the peace, and to do, or order to be done, all such acts, matters, and things as the case may require.’ Now although it be not expressly provided, that deliberating on any grievance in church or state, shall be deemed a crime, except in assemblies convened by private subjects, yet the above-mentioned authority, to arrest men holding discourse to such effect, to be dealt with according to law, does so flagrantly imply it, that the zeal of any justice of the peace, who should so understand the phrase, may regard this as affording ample countenance to his efforts. Happily in the class of magistrates, in this country, are men whose worth and honour render them respectable; but we cannot forget that many are not only appointed by the minister during his pleasure, but are in a state of apparent subjection to his caprice, and some, even paid by him

for the exercise of their office, have their dependence on that caprice for their daily bread. It is therefore but too easy to foresee how such an occasion will be applied.

3rdly, Because the provisions in the conclusion of this Bill form a worthy sequel to the foregoing measures, differing not in principle, but only in extent and application. The prohibition of unlicensed discoursing upon law, constitution, government, and policy, at meetings not sanctioned by the sacred occasion of a free people applying to their legislature, interrupts private instruction, and the freedom of private discourse. The perusal of books recommended by universal esteem, and the authority of names the most venerable, is an indulgence, however, that still remains. We are only forbidden to talk of what they contain.

We therefore think it our bounden duty thus solemnly to mark the ignominious difference between this impaired state of English liberty, and that which was so nobly demanded, and so honourably conceded, at the auspicious era of our happy and glorious Revolution. It is in vain that by the rapidity with which this Bill has proceeded, the petitions, complaints, remonstrances and other addresses of an irritated people have been evaded. It is in vain to hope that the length of time for which it is to endure, will lay the public anxiety to sleep. The people cannot cease to regard this invasion of their rights with grief and dismay. They feel with us, that even indifference would extinguish this fundamental franchise, this safeguard of all our liberties, for ever.

Francis Russell, Duke of Bedford.

James Maitland, Earl of Lauderdale.

William Charles Keppel, Earl of Albemarle.

Edward Smith Stanley, Earl of Derby.

CCCCXXXIV.

MARCH 4, 1796.

The supplies for the year included a vote of credit to the amount of £2,500,000, embodied in a Bill enabling the King to raise a loan of the same amount. The following protest was entered against the third reading.

1st, Because no Vote of Credit has, in any former war, been given or asked to the amount of more than one million; which

Vote of Credit has also been invariably postponed until a short time before the rising of Parliament.

2ndly, Because this mode of granting money to the Crown is that which is at all times to be regarded with the greatest jealousy, and ought only to be adopted when there is a reasonable presumption that sums of money, of which no present estimate can be formed, may be indispensably necessary for the public service, at a period when Parliament is prorogued.

3rdly, Because the enormous sum of two millions and a half, granted by this Bill, cannot be said to be voted on any such presumption, inasmuch, as from the early period of the Session, as well as from the state of the public business, there is no prospect or probability of a prorogation of Parliament taking place for some time to come, and whatever sums may be wanted for the public service during the sitting of Parliament, ought to be specifically voted by Parliament itself, and not loosely provided for by a general Vote of Credit.

4thly, Because the supplies for the year have been granted with an unprecedented liberality, and already amount to above twenty-four millions sterling; a sum fully equal to the utmost demands which his Majesty's ministers have stated to be necessary for every expenditure which the national service requires.

5thly, Because the extreme anxiety of his Majesty's ministers to hurry this Bill through the two Houses at so early a period in the Session, and after such very liberal supplies already voted, leads us to suspect that this farther sum of two millions and a half is immediately wanted to discharge some secret debts which have been improperly contracted, or to defray the expense of some extravagant project not calculated to meet the eye of Parliament.

6thly, Because to give so extensive a credit so early in the Session, is, in a material degree, to take from Parliament, during the remainder of its sitting, the best security it possesses against the extravagance or corruption of ministers; that constitutional security which arises from the power to control and direct the application of the supplies granted to the Crown.

7thly, Because, although we should on all occasions conceive it to be our duty to protest against such a measure, we feel it more especially to be so when we reflect upon the conduct of the Administration with whom the present Bill originates. The

enormous sums expended on services not previously voted by Parliament, exceed within the last three years, all former example: and we cannot but look upon the Bill in question, as being part of a system which acts in contempt and defiance of those wholesome forms and regulations, which the wisdom of our ancestors devised for the protection of the public purse, against the encroachments of corrupt ministers. We are disposed to be liberal towards the Crown, but we are bound to be just towards the people. We maintain that the most important duties of Parliament are overlooked when the supplies are granted before the services are explained; and we solemnly protest against a measure which grants two millions and a half of British money for purposes which are kept secret from the British Parliament.

Edward Smith Stanley, Earl of Derby.

James Maitland, Earl of Lauderdale.

William Charles Keppel, Earl of Albemarle.

CCCCXXXV.

MAY 17, 1796.

In order to meet the exigencies of the situation, Pitt introduced a Bill for the levy of duties on the succession to personal and real estate. In consequence however of the criticism to which his budget was subjected, he determined to divide his Bill, and levy legacy and succession duties upon real and upon personal estates by separate enactments. The tax on personal estates passed with very little remonstrance, though the objections taken to it were more solid than Lord Stanhope has alleged, —Pitt's Life, chap. xxii; see Parliamentary History, vol. xxxii, p. 1026. Against the legacy duty on real estate, the country gentleman determinately set themselves. They absented themselves from the House, and Pitt was once nearly in a minority, from which he was rescued by the Speaker's casting vote. On this, Pitt put off his Bill for granting a duty on succession to real estate for three months, and the discrepancy between the liabilities of real and personal estate has never been remedied. After the Bill for taxing personal successions had passed the Lords, Lord Lauderdale introduced a Bill to suspend the operation of the Act till the 1st of January next, in order to give an opportunity for preventing the injustice which must ensue, if one kind of property was to be taxed and the land was not. But the Chancellor, Lord Loughborough, said, that by the standing orders, a Bill, after it had passed, could not, in the same Session, be either repealed or altered. He therefore moved the rejection of Lord Lauderdale's Bill. The title of the Bill therefore, does not

appear in the Journal of the House, though it is given in the margin of the printed copy.

Lord Lauderdale entered the following protest.

1st, Because the tax on collateral succession to personal property is, in its operation, a tax on capital instead of income; and consequently may impress, at this critical period, other nations with the idea, that all the regular and legitimate objects of taxation are exhausted in this country.

2ndly, Because it is obviously unjust thus deeply to tax on succession, the one denomination of property, and wholly to exempt the other.

3rdly, Because greater inconvenience and injury may arise to individuals from a public exposure of the circumstances and amount of their personal property, especially when the same is employed in commerce, than can possibly accrue from making a like statement of the value of their estates.

4thly, Because, if there be, as his Majesty's ministers have so frequently asserted, discontented spirits in the country, this partial impost will arm with a fact their declamations against the inequality of law; the hardships which press on some parts of the community, and the exemptions by which others are favoured.

James Maitland, Earl of Lauderdale.

CCCCXXXVI.

SEPTEMBER 28, 1796.

In August, 1796, a treaty of alliance was signed between Charles IV of Spain and the French Government, information of which was of course communicated to the British Government. An allusion was made to the hostile attitude of 'the Court of Madrid,' in the King's Speech on the 28th of September, and when the Lords were prepared to move a formal address to the Crown, Lord Fitzwilliam moved an amendment, averring the justice and necessity of the present war, assuring the King of the continued support of the House, and avowing the determination of the Lords to aid in repelling force by force. Lord Grenville, while he applauded the harangue of Lord Fitzwilliam, assured him that the Government had reasonable expectations of peace, and were not prepared to decline negotiations with France till the monarchy was restored. The amendment was negatived without a division.

Lord Fitzwilliam, however, entered the following protest. The last word in the second reason is probably an error for 'domination.'

1st, Because, by this Address, unamended as it stands, the sanction of the Lords is given to a series of measures as ill-judged with regard to their object as they are derogatory from the dignity of His Majesty's Crown, and from the honour of this Kingdom. The reiteration of solicitations for peace, to a species of power, with whose very existence all fair and equitable accommodation is incompatible, can have no other effect than that which it is notorious all our solicitations have hitherto had. They must increase the arrogance and ferocity of the common enemy of all nations; they must fortify the credit, and fix the authority of an odious government over an enslaved people; they must impair the confidence of all other powers in the magnanimity, constancy, and fidelity of the British councils; and it is much to be apprehended it will inevitably tend to break the spring of that energy, and to lower that spirit which has characterised in former times this high-minded nation, and which, far from sinking under misfortune, have even risen with the difficulties and dangers in which our country has been involved.

2ndly, Because no peace, such as may be capable of recruiting the strength, economizing the means, augmenting the resources, and providing for the safety of this Kingdom, and its inseparable connexions and dependencies, can be had with the usurped power now exercising authority in France; considering the description of the character, and the conduct of those who compose that government, the methods by which they have obtained their power, the policy by which they hold it, and the maxims they have adopted, openly professed and uniformly acted on, towards the destruction of all governments not formed on their model, and subservient to their denomination.

3rdly, Because the idea that this Kingdom is competent to defend itself, its laws, liberties, and religion, under the general subjugation of all Europe, is presumptuous in the extreme, contradictory to the supposed motives for our present eager solicitations for peace, and is certainly contrary to the standing policy both of State and commerce, by which Great Britain has hitherto flourished.

4thly, Because, while the common enemy exercises his power over the several States of Europe in the way we have seen, it is impossible long to preserve our trade, or, what cannot exist without it, our naval power. This hostile system seizes on the keys of the dominions of these powers, without any consideration of their

friendship, their enmity, or their neutrality, prescribes laws to them as to conquered provinces; mulcts and fines them at pleasure; forces them, without any particular quarrel, into direct hostility with this Kingdom, and expels us from such ports and markets as she thinks fit: insomuch that (Europe remaining under its present slavery) there is no harbour which we can enter without her permission, either in a commercial or a naval character. This general interdict cannot be begged off; we must resist it by our power, or we are already in a state of vassalage.

5thly, Because, whilst this usurped power shall continue thus constituted and thus disposed, no security whatever can be hoped for in our colonies and plantations, those invaluable sources of our national wealth and our naval power. This war has shown that the power prevalent in France, by intentionally disorganizing that plantation system (which France had in common with all other European nations), and by inverting the order and relations therein established, has been able with a naval force, altogether contemptible, and with very inconsiderable succours from Europe, to baffle, in a great measure, the most powerful armaments ever sent from this country into the West Indies, and at an expense hitherto unparalleled, and has, by the force of example, and by the effect of her machinations, produced at little or no expense to herself either of blood or treasure, universal desolation and ruin by the general destruction of every thing valuable and necessary for cultivation, throughout several of our islands, lately among the most flourishing and productive. The new system, by which these things have been effected, leave our colonies equally endangered in peace as in war. It is therefore with this general system (of which the West India scheme is but a ramification) that all ancient establishments are essentially at war for the sake of self-preservation.

6thly, Because it has been declared from the Throne, and in effect the principle has been adopted by Parliament, that there was no way likely to obtain a peace, commonly safe and honourable, but through the ancient and legitimate government long established in France. That government in its lawful succession has been solemnly recognised, and assistance and protection as solemnly promised to those Frenchmen who should exert themselves in its restoration. The political principle upon which this recognition was made, is very far from being weakened by the conduct of

the new-invented government. Nor are our obligations of good faith, pledged on such strong motives of policy to those who have been sound in their allegiance, dissolved ; nor can they be so, until fairly directed efforts have been made to secure this great fundamental point. None have yet been employed with the smallest degree of vigour and perseverance.

7thly, Because the example of the great change made by the usurpation in the moral and political world (more dangerous than all her conquests) is by the present procedure confirmed in all its force. It is the first successful example furnished by history of the subversion of the ancient government of a great country, and of all its laws, orders, and religion, by the corruption of mercenary armies, and by the seduction of a multitude, bribed by confiscation to sedition, in defiance of the sense, and to the entire destruction of almost the whole proprietary body of the nation. The fatal effects of this example must be felt in every country. New means, new arms, new pretexts, are furnished to ambition ; and new persons are intoxicated with that poison.

8thly, Because our eagerness in suing for peace may induce the persons exercising power in France erroneously to believe, that we act from necessity, and are unable to continue the war—a persuasion which, in the event of an actual peace, will operate as a temptation to them to renew that conduct which brought on the present war. Neither shall we have any of the usual securities in peace. In their treaties, they do not acknowledge the obligation of that law, which for ages has been common to all Europe. They have not the same sentiments, nor the same ideas of their interest in the conservation of peace, which have hitherto influenced all regular governments ; they do not in the same manner feel public distress, or the private misery of their subjects ; they will not find the same difficulty on the commencement of a new war to call their whole force into sudden action, where, by the law, every citizen is a soldier, and the person and properties of all are liable at once to arbitrary requisitions. On the other hand, no attempt has been made to show in what manner, whether by alliances, by force, military or naval, or by the improvement and augmentation of our finances, we shall be better able to resist their hostile attempts after the peace than at the present hour. If we remain armed, we cannot reap the ordinary advantage of peace in economy ; if we disarm,

we shall be subject to be driven into a new war, under every circumstance of disadvantage, unless we now prepare ourselves to suffer with patience and submission whatever insults, indignities, and injuries we may receive from that insolent, domineering, and unjust power.

9thly, Because the inability of humbling ourselves again to solicit peace in a manner, which is a recognition of the French Republic, contrary to all the principles of the war, the danger of peace, if obtained, the improbability of its duration, and the perseverance of the enemy throughout the interval of peace in their mischievous system, is not conjecture, but certainty. It has been avowed by the actual governors of France at the very moment when they had before them our application for a passport. They chose that moment for publishing a state paper, breathing the most hostile mind. In it they stimulate and goad us, by language the most opprobrious and offensive. They frankly tell us, that it is not our interest to desire peace, for that they regard peace only as the opportunity of preparing fresh means for the annihilation of our naval power. By making peace, they do not conceal that it will be their object—‘to wrest from us our maritime preponderancy; to re-establish what they invidiously call the freedom of the seas; to give a new impulse to the Spanish, Dutch, and French marines; and to carry to the highest degree of prosperity the industry and commerce of those nations,’ which they state to be our rivals, which they charge us with ‘unjustly attacking, when we can no longer dupe,’ and which they throughout contemplate as their own dependencies, united in arms, and furnishing resources from our future humiliation and destruction. They resort to that well-known and constant allusion of theirs to ancient history, by which representing ‘France as modern Rome, and England as modern Carthage,’ they accuse us of a national perfidy, and hold England up ‘as an object to be blotted out from the face of the earth.’ They falsely assert, that the English nation supports with impatience the continuance of the war, and has extorted all his Majesty’s overtures for peace ‘by complaints and reproaches;’ and above all, not only in that passage, but throughout their official note, they show the most marked adherence to that insidious and intolerable policy of their system, by which they, from the commencement of the Revolution, sought to trouble and subvert all the governments in

• Europe. They studiously disjoin the English nation from its sovereignty.

10thly, Because, having acted throughout the course of this awful and momentous crisis upon the principles herein expressed, and after having, on the present occasion, not only fully reconsidered, but jealously examined their soundness and validity, but gravely attended to, and scrupulously weighed the merits of all those arguments which have been offered to induce a dereliction of them, conscientiously adhering to, and firmly abiding by them, I thus solemnly record them, in justification of my own conduct, and in discharge of the duty I owe to my King and country.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

CCCCXXXVII.

MARCH 27, 1797.

On the 23rd of March, Lord Oxford moved a long address to the Crown, the purport of it being that peace should be brought about with France as speedily as possible. After a debate, the motion was negatived by 52 to 16. On the 30th of March, Lord Oxford complained that on his coming down to the House on the 24th of March to enter a protest, he found that his motion was not entered on the Journals, Lord Kenyon, who was acting as Chancellor, having carried off the motion in his pocket. He then moved the censure of the House on Lord Kenyon. Upon this, Bishop Horsley took the Earl severely to task for committing a breach of standing order No. 114. Lord Oxford's motion to repeal this order was negatived by 50 to 1, and it was ordered that no entry of the proceedings be made in the Journals. It may be observed that Lord Oxford's motion is in the Journal for the 23rd of March.

The following is Lord Oxford's protest.

1st, Because seeing no means of salvation for this country but by an immediate, sincere, and lasting peace, I think the Address, which I moved on the 23rd of March, 1797, calculated to produce that happy event, and that a refusal to carry that Address to the Throne, tends to a continuation of this cruel war, which I hold to be certain and inevitable ruin.

2ndly, Because a Secretary of State's moving, that an Address to his Majesty on the 30th of December, 1796, should be read, is a poor, weak, and rude manner (to say no worse of it) of answering the arguments advanced in my address.

3rdly, Because I believe that the arguments advanced by me have never before been touched upon, even in debates, and no attempts having

been made to answer those arguments, the conclusion which the public must draw from it is, that they are perfectly unanswerable.

4thly, Because it was my sincere wish that the eyes of his Majesty should be opened to the dangers with which he is surrounded, and that giving peace to his exhausted subjects, and restoring to them their rights, should be his own gracious act.

5thly, Because I have the highest authority for every sentiment respecting the economy and reform of abuses which I recommended, namely, his Majesty's own words, in that most excellent and patriotic speech made at the close of the American war, and which I quoted in my reply.

6thly, Because whenever a nation is in the situation we are in at present, it requires the united energy and public spirit of the whole nation, to re-establish its credit; and I am persuaded that energy and public spirit are only to be obtained by the public possessing their ancient free constitution, which they so justly revere: and I maintain, that, according to common law, which is common sense, and according to 'the true spirit of the constitution,' which is founded in wisdom, liberty, and justice, the people of Great Britain have a right, and ought, to be fairly and equally represented in that which, by its very name, is their House of Parliament.

7thly, Because I hold the borough system, and every other system of corruption that has of late years crept into practice, to be directly contrary to the true spirit of the constitution, and big with the most alarming evils to King and people; and that to confer the honour of peerage on men who have no other merit than that of commanding boroughs, and performing ministerial jobs, degrades that high dignity, and takes away one of the greatest motives that actuates the human mind, the hope of reward, by making it unworthy the acceptance of those men for whom it was intended; men who have rendered great and distinguished services to their country by their valour, their talents, or their learning.

8thly, Because I am desirous of making this public avowal of my principles, which nothing on earth shall make me alter, and which I have learnt from the acts and writings of our ancestors, who loved liberty and understood it.

9thly, Because I am resolved, whenever I see danger, boldly and independently, to the full extent of my ability, to discharge my duty to my King and country.

Edward Harley, Earl of Oxford and Mortimer.

CCCCXXXVIII, CCCCXXXIX.

MAY 30, 1797.

On this day the Duke of Bedford made a motion for an address to the King, praying him to dismiss his Ministers, 'who have constantly insulted the enemy by their discourses, and encouraged them by their incapacity,' 'whose extravagance and want of good faith have impaired the credit of the country,' in order that the Irish people may have a proof of 'the King's disapprobation of the system of treachery by which the discontents of that country have been fostered,' and the English may have a proof of the King's 'cooperating in restoring the spirit of the British constitution, and of adopting such a system of economy and retrenchment as is alone consistent with the prosperity of his exhausted people.' The Duke's motion was negatived by 91 to 14.

The following protests were entered.

1st, Because, acting according to the ancient practice of the British constitution, and in conformity with its true principles, we hold the advisers of the Crown to be responsible for the condition of the State; responsible for its internal peace, and general good government; for the preservation of all its ancient fundamental rights and liberties; for the protection of its commerce, of its credit, and the various sources of its prosperity and wealth; for the observance of order, discipline, and obedience in all the departments of the public force; for the honour and success of our arms (if unfortunately engaged in war); for the preponderance of the British power, and for the glory and splendour of the British name. Instead of recognizing in his Majesty's Ministers, that ability, foresight, and integrity, by which these its dearest interests are preserved, we have seen throughout a course of years, the affairs of the nation conducted with that incapacity, perfidy, and corruption, by which all great empires, from the beginning of the world, have found their ruin; and which in the particular state and situation of Great Britain, have nearly exhausted its resources and its credit, and annihilated its constitution, which have brought shame upon its character in the eyes of foreign nations, and diffused largely among its subjects, mistrust in the intentions of their governors, hatred of their power, and contempt for their debility.

2ndly, Because encouraged by the uniform, implicit, and fatal confidence of this House in the conduct of Ministers, a system of government has arisen, which, if it be farther persevered in, will render the fortunes of these realms utterly irretrievable, even should

wisdom and virtue succeed in the minds of those Ministers to ignorance and wickedness. That system is governed by principles the very reverse of those by which states and societies have hitherto been kept together. It is grounded on the doctrine that honour and reward is to attend on crime and folly : and that men are to be entrusted with power in proportion to their disposition to abuse it. Such perverted maxims of policy take from Government all the support it derives from opinion. The opinion of its consistency is lost by Ministers adopting and rejecting, as it suits the purpose of their power, systems which they alternately recommend and revile. The opinion of its justice is destroyed from seeing that power depends on a principle which confounds the first distinctions of right and wrong. All opinion of its vigour and efficiency is lost in the daily insults to its authority, to which they are compelled to submit. Every species of disorder is hence introduced. The example of those who govern is followed by those who obey. Nothing regular or orderly is found in the intercourse between subject and sovereign. State necessity, instead of being reserved for occasions of the last emergency, is resorted to as the constant, and every-day practice of executive administration. In such a system there is neither order nor freedom ; and it is the energy of freedom alone that can resist with effect the zeal of fancied superiority of military means. Where no power is left to correct the vices of an ill-administered commonwealth, nothing will remain to oppose to the enterprises of a foreign enemy.

3rdly, Because to suffer ourselves to be found by a foreign enemy in this distracted condition, when we have the means of avoiding it, seems to us highly impolitic, and wantonly to call down destruction upon the State. We see nothing in the present Ministers so valuable as to induce us to risk, for their preservation, any part of the common interest. They have already kindled, by their odious prosecution of the Catholics in Ireland, the flames of civil discord in that country. We believe that an immediate change of men and of measures would yet preserve the common ties by which the two countries are united. If, unhappily, measures of intolerance are to be sustained by the sword, and if that oppressed country be torn from the British crown, as America was severed from our empire, rather than that these Ministers should incur the loss of their offices, we are unable to see in what Great Britain would be the

gainer. If an invasion of these realms should be the result of delaying to open a sincere negotiation for peace, fully as we rely upon the zeal and bravery of our countrymen for the event, we do not conceive that the mischief of such an attempt would in any degree be compensated by finding, at the close of it, those Ministers still in their offices. Above all things, we deem it highly inexpedient that any numerous or important class of the people should, in so perilous a moment, conceive themselves to be placed in the alternative between foreign conquest, and domestic usurpation. We think that in this crisis, no excuse is left for not calling forth the whole wisdom, and all that remains of the energy of the British nation; that it is among the crimes of these Ministers that they have exhausted, in idle alarms for factious purposes, those resources which ought to have been preserved whole and unbroken, to meet the disasters which are impending over us; and for having set up a cry of loyalty against liberty, to the destruction of that real strength, by which alone our shores and our altars can, in the last extremity, be defended.

4thly, Because such a system is dangerous to our present safety and existence as an independent state, and the support uniformly given to it tends to degrade and vilify this House in the opinion of the people. For the first time in our history, the continuance of a Minister in office seems to be made a condition of the Constitution. If that Minister, after having reduced his country to the lowest ebb of shame and misery, shall continue to receive and to dispense all trusts, honours, and emoluments, and to be supported in his abandoned courses by this House, no motive will remain to love and reverence a Constitution exhibited in these colours to the people, through the medium of this House. Feeling no interest in our proceedings, they will lose all respect for our character, and all belief in our honour.

5thly, Because we believe the present Ministers to be utterly incompetent to the cure of the evils they have produced. As the principles on which they made the war offer no prospect for its success, those on which they have hitherto negotiated for peace afford no hope for its attainment. As the improvidence and incapacity with which they have conducted the war have contributed so largely to produce the calamitous situation of Europe, and to build up the prodigious power of the French Republic, we conceive that they

possess not the means of obtaining safe or honourable terms of peace for this country. We cannot expect that they will hereafter cherish or encourage that spirit of liberty, under which, in former times, our greatness has grown and been matured. We are rather impressed with the fear, that under the same pretences which have caused all our present disasters, large military establishments will continue to be kept up, with a view of crushing all its efforts, and riveting still closer the fetters of the people; that released from the pressure of foreign hostility, they will have recourse to coercive measures in that unhappy country, where their oppressions have already provoked the people to resistance. We can hope for no economy from men whose extravagance and waste exceeds whatever has been heard of the mad prodigality of former periods. We can expect no salutary reformatations from those who have endeavoured to engraft upon, and blend with the substance of the Constitution itself, those abuses by which their rapacity is supported. Finally, we can expect, from such men and such a system, no other issue but the establishment of a dominion of ministerial terrorism, supported by parliamentary corruption, instead of the ancient constitution of this country, conducted according to the principles of the Revolution.

Francis Russell, Duke of Bedford.
John Howe, Lord Chedworth.

Dissentient to the first reason, for the word 'perfidy' being used.
Agree to the other reasons.

John Howard, Earl of Suffolk and Berkshire.

Because the history of the world cannot produce an example of so many national distresses brought on any great empire, as have been inflicted on this country within the space of the last four years, in consequence of the pernicious system of measures pursued by his Majesty's Ministers; and that judging reasonably and fairly from what has been experienced of their incapacity for the situations they hold, we are thoroughly authorised to pronounce, that, under their guidance we have to expect that greater calamities must inevitably fall upon the nation, whose exertions, in order to prevent them, will be vain, until a different system of government, under leaders more sagacious, and more attached to the true spirit of the Constitution, shall be chosen to hold the reins of government, and to establish a

system of public spirit and economy ; and by the efficacy thereof, be able to restore the Crown, Parliament, and the nation, to their former lustre.

Augustus Henry Fitzroy, Duke of Grafton.
John Howard, Earl of Suffolk and Berkshire.

CCCCXL.

NOVEMBER 2, 1797.

The second paragraph of the King's Speech contained certain expressions declaratory of his desire for peace, and criticising the action of the French in the rupture of the negotiations which had been initiated. Lord Fitzwilliam moved the omission of these expressions, as dishonourable to the English Crown, from the address in answer to the speech. The debate may be found in Parliamentary History, vol. xxxiii, p. 857. The negotiations were those which took place at Lisle, in July 1797, between Lord Malmesbury on the part of England, and Delacroix, and subsequently Talleyrand, the French ministers. See Stanhope's Pitt, chap. xxiv. Lord Fitzwilliam's motion was negatived without a division.

He inserted the following protest.

1st, Because the amendment which has been rejected, appeared to me necessary to save the honour of this House from being implicated in approving a negotiation, of which we know little more than that it has drawn down new calamities and indignities, new injuries and outrages on his Majesty and his people. Of these, indeed, too much is already known. His Majesty has been advised to set forth a detailed account of them to France, to Europe, and to the world, as if the late abrupt conclusion of the negotiation by the French Directory, and the insulting dismissal of our ambassador were not the notorious and immediate consequence of the public voice of France having been overruled by force and terror, and as if all Europe (however in great part subdued also by force and terror) and America, the only part of the world out of Europe, which is directly connected with the system of Europe, were not too well acquainted before with the disposition and principles of the common enemy. On his side we are told, that there was a studied accumulation of everything that could offend and irritate a high-minded people, such as the people of England once was ; a wanton violation of all the mutually respectful forms which long usage has established in the intercourse of free nations, and a final demand (to which, from the moment of our first pacific overtures,

that arrogant power has constantly recurred) of a direct surrender of our independence, by taking his laws and treaties for the basis of negotiation, and, indeed, for a preliminary to all discussion. On our side, it is avowed, that there was a departure from all the rules of common prudence, by disclosing all our objects before we could learn any one definitive pretension of the enemy, as the price of peace; and a patience, that it is too much to be feared, that France, Europe, and the world, to which it is declared, may mistake for pusillanimity. The circumstances which could warrant such a conduct, so contrary to all common policy, ought, indeed, to be weighty and grave, if not imperious and irresistible. Under our present circumstances, to take any step which may seem, however distantly, to approve that conduct, can only tend to deceive his Majesty's ministers as to the sentiments of this House, and induce still greater humiliation, which must terminate in ruin as well as in dishonour. No country can be safe which is not respected: no country can hope to be respected, that does not first respect itself.

2ndly, Because, having recorded my sentiments on the Journals of this House, when this train of measures was new, and the result of the first experiment yet in suspense, I have now the affliction of finding, that whatever I had apprehended from it, has been very much exceeded by its effects, in raising the insolence and audacity of the enemy, and in breaking down that spirit and energy of government, which can alone work out our safety in this awful juncture, or give dignity and glory to our fall.

3rdly, Because the sacrifices which his Majesty has lately been advised to offer, and still to declare himself ready to make, cannot now have the same object which the same or similar offers had on a former occasion. We were then anxious, by the cession of our own acquisitions, to redeem the most important part of the ancient established system of Europe, in which a breach had been made, and which was menaced with still greater danger. In different treaties of peace, sometimes England, sometimes France, sometimes other states, according to the circumstances of the juncture, have surrendered more or less of their actual conquests, for the purpose of restoring the general balance of power for the general safety. In such a peace, we should have had some apparent security, though slender indeed, against the ambition and principles of Republican France. But our last proposed sacrifices were offered

merely to obtain peace. For that, and for that alone, we were prepared to give up possessions which, under the laws of war, had become our own, whilst the enemy had invariably insisted on keeping everything which his arms had conquered from the other great Powers of Europe. Everything that may be necessary to give rational security to an enemy, showing a true pacific disposition, would be well surrendered without any compensation; but a proposal to purchase peace, as a valuable consideration in itself, is a distinct admission of inferiority, or a proof of pusillanimity, never honourable, and therefore never safe to a great nation, especially in the face of an enemy, who measures all right by power and audacity; and against whom it was admitted in debate by his Majesty's ministers, 'that no security could be found in peace, without uncommon caution, and an uncommon degree of warlike preparation.' A treaty formed on this principle, may be complimented with the name of peace, but it will be in effect only a suspension of active hostility, without any of the advantages of peace, and subject to all the expenses and dangers of war.

4thly, Because the whole conduct, as well as declarations of the enemy since the opening of the last Session, had been particularly pointed against this country, so as to leave no rational ground of expecting any event from negotiation but that which has happened, of unavailing humiliation. The original treaty of France with America was most unjustly infringed, and avowedly, because the latter country would not insist on our granting nominally to her, but really to France, exceptions and immunities derogating from the general maritime law respecting neutral nations. While no one word of conciliation was ever used towards us, our ally the Emperor was, by turns, menaced and caressed to induce him to listen to a separate peace; and in the very outset of our late negotiation, his Majesty has declared that 'Modes were insisted upon, the most inconsistent with the enemy's own conduct in every other instance.' What has never yet been demanded by that insolent government from any other great state of Europe, was exacted from us, that we should become accessories in violating all the ancient usages, invented and received, to guard the independency and dignity even of the weakest powers. No tolerably secure and honourable peace could have come, or ever can come, from a negotiation commenced and continued in that spirit.

5thly, Because while his Majesty persisted in a disposition to treat, and when he again offered in his public declaration to ratify the terms before proposed by him, the whole ground had failed on which alone his Majesty had been induced on the 8th of December, 1795, to declare for the first time a desire of meeting any disposition which the enemy might manifest to negotiate a general peace, on just and suitable terms. That ground, as it was previously explained to us by his Majesty's Speech on the opening of that Session, and as all his Majesty's ministers constantly argued in debate, was the establishment in France 'of an order of things compatible with the tranquillity of other countries, and affording a reasonable expectation of security and permanence in any treaty which might be concluded.' Such an order of things was benevolently hoped by his Majesty to have been established in the third new constitution, made in the fourth year of the French Republic. In the interim between our two negotiations, at Paris and Lisle, the first election, not immediately controlled by an armed force, came on under that constitution. The true voice of the majority of France was for the first time heard, and heard against the actual government of that wretched country. The armies were called in to stifle that voice. The principal leaders of the two legislative councils were seized and transported without any form of trial, a new and unheard-of thing, even in the history of their injustice; nearly two-thirds of France were disfranchised; the press silenced; the clergy again proscribed, and the most arbitrary and ferocious measures threatened, as well as some absolutely taken, against all that remains of the nobility, gentry, and magistracy of the ancient monarchy. The power now established is notoriously the very same in character, in maxims, and conduct, as well as for the most part exercised or supported by the same men, with the government which existed at, and soon after the commencement of the war, and which was truly described in his Majesty's Declaration of the 29th of October, 1793, as a 'state of things that could not exist in France without involving all the surrounding powers in one common danger, without giving them the right, without imposing it upon them as a duty, to stop the progress of an evil which existed only by the successive violation of all law and all property, and which attacked the fundamental principles by which mankind are united in the bonds

of civil society.' It was against that government 'that his Majesty then called on the people of France to join the standard of an hereditary monarchy,' 'in order to unite themselves once more under the empire of law, of morality, and religion;' the continuance of the same sort of government, changing never as to its fundamental principles, though fluctuating perpetually as to the persons of the usurpers, who occasionally tyrannize over the enslaved people, has confirmed me more than ever in my full assent to the wisdom of his Majesty's Declaration then made.

6thly, Because though the most absolute and over-ruling necessity could hardly palliate, much less justify, the sacrifice which the late negotiation would have made of our dignity, honour, and independence, together with our acquisitions, yet we have the satisfaction of knowing how and when his Majesty's ministers advised him in his Declaration to repeat his offer of peace; they also knew that nothing in any degree approaching to such necessity exists. The relative situation of this Kingdom with regard to France is much improved since last year. We have lost nothing. We have gained something. The extension of the enemy's dominion under the name of protection, in the interior of Italy, gives him little additional means of immediately annoying us. The marine of those allies, through whom alone he hoped to act against us, has been crippled by our glorious victories. We are secure from him, and he is left open to the undisputed superiority of our navy, to our attacks, if his Majesty shall be advised to call forth the spirit and energy of his people, and to carry succour and assistance to the majority of that nation groaning under the tyranny of the usurpation, and manifesting on every occasion sentiments of disaffection and hostility towards the present establishment, deceitfully and cruelly imposed on them as a mild and beneficent constitution. This is a state of things not the result of my speculation, but derived from the admission of the usurpers themselves. It is by them brought forward in their late declaration as their justification, and as the imperious and irresistible motive for violently disfranchising so large a majority of the nation of those rights and privileges upon which, as upon an unalterable basis, the pretended liberties of their Republic were built and established. The pecuniary distress and embarrassments of the enemy have increased, so as to have been a pretence for some of the late violent proceedings

in France, while, on the contrary, the inquiries of our committees have long since prepared the House to anticipate the pleasing assurance of his Majesty, 'that we possess means and resources proportionate to the objects which are at stake, that our revenue has continued highly productive, our national industry has been extended, and our commerce has surpassed its former limits.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

CCCCXLI.

JANUARY 9, 1798.

One of Pitt's financial measures for this year was the Income Tax. It had, according to Lord Stanhope, been often suggested to Pitt, and notably by Bishop Watson. The resolution on which this tax was based was carried on the 4th of December, by 214 to 15. The first Income Tax was a graduated percentage, beginning at a 120th of the recipient's income, if its annual amount was between £60 to £65, and gradually rising to one-tenth at £200 a year and upwards. The debates on the subject in the Commons may be found in Parliamentary History, vol. xxxiii, p. 1066, that in the Lords in p. 1275. The Bill was carried by 73 to 6 in the Upper House.

The following protest was entered.

1st, Because we conceive that in the present circumstances no grant of money by Parliament can alone be sufficient to extricate the country from its alarming and critical situation.

When the exigencies of the State are such as to demand large supplies from the people, our duty is not confined to the bare consideration of the necessity of the case, or the mode of levying the money. We are not, from the pressure of circumstances and the approach of danger, hastily to concur in laying additional burthens on our fellow-subjects, without insuring to the public a wise application of the money so raised, and without due precautions for directing the efforts of the people to their only legitimate object, the benefit of the community. A neglect of this, the most important of all parliamentary duties, must produce, and in our opinions it has already produced, consequences the most fatal to the dignity of the nation, the stability of the government, and the interests of the people. In the unconditional compliance with the demands of the executive government, again proposed as the remedy, we perceive the real and fatal source of the evil. Year after year his Majesty's ministers have grounded their application

to Parliament upon the urgency of the occasion, and the extraordinary exigencies of the State ; to satisfy their demands, to enable them to encounter the dangers, and remove the difficulties in which we were involved, every article of luxury or convenience has been taxed, the resources of the country have been exhausted, and sums unparalleled in history, have been entrusted to their disposal ; yet year after year the occasion has become more urgent, the exigencies more pressing, the difficulties more alarming, and the dangers more immediate : the security of the nation has been shaken in the same proportion as the prosperity of the country has been impaired, external danger has kept pace with internal distress, and the exertions which have impoverished the people and shaken our credit, have purchased nothing but the loss of national honour, the defection of allies, and the failure of every great object of the war.

If the whole force of Great Britain and Ireland, aided by grants, lavish beyond the example of the most improvident times, assisted by the most powerful monarchs of Europe, has proved insufficient in the hands of ministers to secure the blessings of peace, or even to avert the present awful circumstances of the country, it seems inconsistent with reason to expect, that the painful efforts of an empire, whose means are exhausted by taxation, whose spirits are damped by failure, and whose affections are in part alienated by oppression, can without a single ally, under the direction of the same men, resist with effect a powerful and exasperated enemy elated with success, strengthened by conquest, and supported by the united Powers of Holland and of Spain. In this situation of affairs, to persevere in the system which has produced it, to confide in the ministers who with the aid of so many millions, have been unable to avert it, evinces in our opinion a total disregard of the common maxims of prudence, a wanton rejection of the lessons of experience, and a determined neglect of the most important of our parliamentary duties. Under the persuasion, therefore, that the dangers with which we are now threatened are the result of force, directed to objects at once impracticable, and foreign to the interests of this country ; that they are the necessary consequences of a misapplication of the public money, and the natural fruits of the incapacity and profusion of those to whom it has been improvidently intrusted ; we deemed it our duty not to sanction any grant

to the executive government, until a pledge was given to the House by the removal of his Majesty's ministers, of a complete alteration in his councils. We held it neither just to impose, nor reasonable to require, any additional sacrifices from our fellow-subjects, until some prospect was held out to the people of a reform of that House which has granted, and a censure of those ministers who have lavished, sums so enormous, without any benefit resulting to the community: we thought that while his Majesty's affairs were conducted by those who originally engaged in this calamitous contest, and who can neither carry on war or negotiation with honour, advantage, or success, no grant of money by Parliament, no sacrifices on the part of the people, could afford a reasonable hope that the blessings of peace would be speedily restored or permanently secured: we imagined that until some earnest was given of a radical alteration of the system of terror and coercion in Ireland, of the repeal of the two Bills, the one intituled, 'An Act for the safety and preservation of his Majesty's person and government against treasonable and seditious practices and attempts;' and the other intituled, 'An Act for the more effectually preventing seditious meetings and assemblies in this country;' of economy in public expenditure, and a diminution of the enormous patronage and influence of the Crown, we were not warranted in expecting that cheerful co-operation of the people, which being at once the indication and result of a reciprocal confidence between the government and the governed, can only be restored by the restoration of the ancient and happy practice of a constitution undisfigured by coercive laws, of a Parliament speaking the sense of the people, and a ministry dependent on the voice of the Parliament.

2ndly, Because it appears to us, that any attempt to raise the supplies within the year, in the present exhausted state of the country, must be attended with the greatest difficulty and danger.

3rdly, Because were we to allow that the principle of raising the supplies by contribution, instead of loan, was just, wise, and expedient, yet under the present ministers it would appear to us attended with the utmost danger, as the real expenses of the year have generally exceeded by nearly one-half their calculation, and thus any regulations for the equal distribution of the burthen, which were adopted upon the first calculation, might be rendered ineffectual by subsequent and more extensive demands.

4thly, Because if the Bill is intended as a tax upon expenditure, its retrospective operation is arbitrary and cruel in the extreme, and altogether repugnant to the usages of our ancestors, the faith of civilized governments, and the common dictates of humanity and justice. If it is intended as a tax upon income, in our opinion the criterion proposed is objectionable and inadequate; and above all, as income is of various descriptions, sometimes arising from permanent and disposable capital, sometimes from precarious or temporary possessions, and sometimes from labour, talents, or industry, we deem any attempt to proportion the burden to the income in itself unjust, unequal, and impolitic. If it is intended as a tax upon property, neither in the original criterion, *videlicet* the Assessed Taxes of 1797, nor in the proposed relief, do we recognize any just principles of taxation, or perceive any fair or adequate method suggested for the impartial distribution of the burthen.

5thly, Because the relief proposed in the Bill, to those who may by the increase of their Assessed Taxes be liable to pay more than the tenth of their income, requires a disclosure of their pecuniary circumstances, which is contrary to the customs and prejudices of Englishmen, and repugnant to the principles of the constitution, and which to persons engaged in commerce or trade must be attended with yet greater inconveniences than the payment of more than the tenth of their income. Furthermore, this regulation appears to us an indirect breach of the faith so often and so sacredly pledged to the stockholder; for should the whole of the income of any individual claiming this relief consist in a dividend upon stock, a tenth of that income is immediately sacrificed, and the dividend, in violation of the faith of the Parliament and the nation, diminished one-tenth by the intervention of government.

6thly, Because the operation of this Bill is not confined to a definite period of time, but by the most wanton violation of justice remains in force till a certain sum is produced; thus exacting from the honest the deficiencies which may have been occasioned by accidental circumstances, by the designs or the distress of individuals, by the favour or the neglect of the collectors.

Henry Richard Fox, Lord Holland.

Edward Harley, Earl of Oxford and Mortimer.

CCCCXLII.

MARCH 22, 1798.

On this day the Duke of Bedford brought forward his motion for an address to his Majesty to change his Ministry. The proposition was negatived by 113 to 13, and a counter resolution moved by Lord Romney, expressive of confidence in the Administration, was carried.

This produced the following protest.

Because we feel it to be a duty prescribed to us by necessity, and dictated equally by our love for our country and by our regard for the person and dignity of the King himself, to declare our solemn and conscientious conviction, that nothing short of an immediate dismissal of his Majesty's present ministers, and a change of the system on which they have conducted the government, can enable us to support our present accumulated distress, or afford us a chance of averting the dangers with which we are on all sides surrounded, and which, if not encountered with adequate fortitude and wisdom, threaten certain ruin and dissolution to the power, laws, and liberties of these Kingdoms.

Francis Russell, Duke of Bedford.

Charles Howard, Duke of Norfolk (Earl Marshal).

Henry Richard Fox, Lord Holland.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).

Sackville Tufton, Earl of Thanet.

Edward Smith Stanley, Earl of Derby.

Charles Bennet, Earl of Tankerville.

CCCCXLIII.

JUNE 12, 1798.

Another of Pitt's projects, intended to revive the credit of the public funds was to make the Land Tax perpetual (it had been annually granted at four shillings in the pound for nearly half a century), and to provide for the extinction of a part of the debt, by permitting the redemption of the tax, the proceeds of such redemption to go to the extinction of debt. It does not appear that much opposition was made to the scheme in the Lords (38 Geo. III, cap. 60), but the following protest was made at the third reading.

1st, Because unwilling to depart from the established principle of the land-tax being voted annually; a principle, we conceive, founded on the most solid basis of political wisdom.

2ndly, Because the introduction of so serious an innovation, as rendering the land-tax perpetual, appears to us neither beneficial to the public, nor just to individuals. The tax being from its very nature unequal, and liable to fluctuation from a variety of causes, cannot furnish any reasonable ground on which to establish one permanent, uniform plan of financial operation.

3rdly, Because the proposed plan of sale or redemption, with a view to the general prosperity of the country, appears totally fallacious, as the mode in which its operation is to take effect cannot but be precarious; and should the event proposed answer the warmest expectations of the most zealous advocates for the measure, its success can alone be derived from sacrificing the great and constitutional interests of the country, namely, the landed, to the more precarious and fluctuating interest of the monied property of the Kingdom.

4thly, Because, admitting under the present circumstances the necessity of great and extraordinary exertions in order to protect our liberties, constitution, and country, against those unprecedented dangers with which we are menaced, we still think the country equal to resist successfully every probable degree of difficulty and danger, provided its resources are applied with wisdom as well as energy. The land undoubtedly must, in common with every other species of property, bear its part of the public burthens; and be the weight of those burthens more or less, according to the pressure of particular times and circumstances, we never can approve the endangering the constitutional importance of that interest which has hitherto been regarded as so materially connected with the legal independence and rational freedom of our country.

It is upon these grounds we object to this Bill passing into a law; and actuated by no other motives than the conscientious discharge of our duty, and the most earnest wishes for the prosperity of the state, we have thought it necessary to record our dissent, in order that whatever inconvenience, vexation, or more serious calamity may arise from such a measure being adopted, we may not appear responsible for its consequences, either to the present age, or to posterity.

Francis Godolphin Osborne, Duke of Leeds.
Charles Meadows Pierrepont, Viscount Newark.

Henry Herbert, Earl of Carnarvon.
John Howard, Earl of Suffolk and Berkshire.

CCCCXLIV.

JUNE 15, 1798.

The events of the Irish outbreak in 1798, the attempts of Lord Moira to obtain a hearing for Irish grievances in the English and Irish House of Lords, the manner in which he was baffled by Lord Grenville in Westminster, and Lord Clare in Dublin, are well known. They are commented on in Stanhope's *Life of Pitt*, chap. xxv. The report of the Secret Committee of the Irish Lords may be found in the last volume of their journals, page 138; see also Musgrave's *History of the Rebellion*. The rigour with which suspected persons were treated, the atrocities perpetrated by the yeomanry and the militia are remembered and commented on even at present. The trials of O'Connor and O'Coigley were held at Maidstone on the 21st of May. On this occasion the chiefs of the English opposition gave testimony in favour of O'Connor, and Lord Thanet, who strove to assist O'Connor in escaping after the verdict, was fined £1,000, and imprisoned for a year.

The subjoined protest was entered after a debate on the motion of the Duke of Leinster, amended by a clause introduced into it by the Duke of Norfolk, in which complaint was made of the neglect shown to the Lords by the ministry in not furnishing information as to the state of Ireland, and indignation expressed at the atrocities practised on the Irish people. The debate was taken at Lord Sydney's instance with closed doors, even members of the House of Commons being excluded. Both motion and amendment were rejected by 70 to 19.

1st, Because it was the indispensable duty of the King's ministers to have advised his Majesty to make an early, regular, and constant communication of the disastrous events which have happened in Ireland, and of the deplorable state of that Kingdom to both Houses of Parliament, and more especially to this House, who are the great hereditary council of the Crown, and who never have been, or can be consulted on a question of greater importance to the safety of the British Empire, than that which was the subject of this day's debate.

2ndly, Because ministers having studiously withheld from the knowledge of this House a fact of such transcendant magnitude and concern to the whole empire as the existence of a rebellion raging in Ireland, and for the suppression thereof having employed a great portion of the supplies granted, and of the army voted by Parliament for the service of Great Britain, without the advice,

consent, or knowledge of Parliament, are guilty of a high aggravation of those unwarrantable acts and criminal omissions in refusing to yield to a motion so temperate, so prudent, and so necessary as that which has been submitted to this House, whereby this House is, in effect, deprived of all means of performing their duty to his Majesty, and to the country, or of acting at all in their constitutional capacity, as Council to the Crown, in a case of the most urgent necessity, and imminent danger to his Majesty's person and government, and to the safety of the whole empire.

3rdly, That, considering the nature and all the circumstances of the case, we hold that a refusal on the part of ministers to consent to an enquiry into these transactions, is equivalent to an acknowledgment of consciousness in them, that the calamities of Ireland originated in their own pernicious counsels, and will not bear investigation, and that such refusal is likely to be attended with the most fatal consequences; for all which we hold them to be responsible to his Majesty, to Parliament, and to the nation.

Francis Russell, Duke of **Bedford**.

William Cavendish, Duke of **Devonshire** (for the first reason).

George Damer, Earl of **Dorchester**.

Francis Rawdon, Lord **Rawdon** (Earl of Moira).

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

Henry Richard Fox, Lord **Holland**.

Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

William Robert Fitzgerald, Viscount **Leinster** (Duke of Leinster).

John Howard, Earl of **Suffolk and Berkshire**.

Anthony Ashley Cooper, Earl of **Shaftesbury**.

Charles Howard, Duke of **Norfolk** (Earl Marshal).

George Augusta Lumley Sanderson, Earl of **Scarborough**.

CCCCXLV, CCCCXLVI.

JUNE 19, 1798.

On the 18th of June the King sent a message to the Lords informing them that the officers, non-commissioned officers, and privates of different regiments of the militia, had volunteered for service in Ireland, and that he recommended the House to devise means by which the King could be empowered to use their services. On this message being delivered, Lord Grenville introduced a Bill, empowering the King to accept their services. Papers were laid on the table of the House next day, containing offers from the regiments, and the Bill was read a second time, put into

committee, and passed. It is 38 Geo. III, cap. 66. The debate in the Commons took place on the 19th of July, when the Bill was carried by 118 to 47.

The following protests are inserted.

1st, Because, convinced that the very existence of the militia, as a constitutional force, depends upon strictly adhering to that great and fundamental principle on which it was originally established, namely, the internal defence of the Kingdom.

2ndly, Because, any departure (under whatever circumstances) from conditions hitherto considered as sacred, and on which every engagement respecting the militia service has hitherto proceeded, must create distrust with regard to its future destination, and hereafter render it extremely difficult to find persons of property and independence disposed to serve as officers.

3rdly, Because, however laudable the offers lately made by certain militia corps to serve in Ireland undoubtedly are, it does not appear that those offers can be accepted without manifestly risking great and serious inconvenience to this country; and, highly important as it is to crush, as soon as possible, the rebellion now unhappily raging in the sister kingdom, the proposed measure still appears highly objectionable; nor can it be too much lamented if, from an unfortunate distribution of the forces of the empire at large, tranquillity cannot be restored to Ireland but at the expense of the constitution of Great Britain.

Francis Godolphin Osborne, Duke of Leeds.

1st, Because the militia being the only permanent armed force that can be lawfully maintained, and by its institution intended solely for the defence of this Kingdom, an offer to carry it out of the Kingdom could not be made consistent with the principles of the constitution, and ought not to receive the sanction of Parliament.

2ndly, Because no communication relating to Ireland having been made to this House, or the advice of Parliament taken on the state of that Kingdom, it can have no means of judging of the propriety of any measures to be taken; and the only source of information being private accounts and unauthenticated publications, which assert that scourges and tortures have in numerous instances been inflicted to extort confessions and accusations, which illegal acts

(being generally believed, and not having been contradicted by Lords in his Majesty's councils when called upon to do it) might greatly tend to excite those insurrections which the application of this force is intended to suppress.

3rdly, Because this Bill has been passed with a haste and precipitancy incompatible with the cool deliberation requisite for a matter of such importance, and contrary to the wise regulations and orders of this House.

Charles Howard, -Duke of Norfolk (Earl Marshal).

CCCCXLVII, CCCCXLVIII.

JUNE 27, 1798.

The House debated the state of Ireland with closed doors again. The Earl of Bessborough moved that an address be presented to the King, imploring him to use measures of conciliation after the rebellion was suppressed, and to employ persons in the administration of the country, who would possess the confidence of the people. This motion was rejected by 51 to 21. On this, the Duke of Bedford moved a resolution condemnatory of the cruelties which had been practised in Ireland, and especially that of scourging and torturing. Lords Grenville and Spencer, and the Bishop of Rochester (Horsley) opposed the motion, and Lord Holland supported it. It was lost by 63 to 20.

The following protests were entered against the rejection of Lord Bessborough's motion.

1st, Because I was shocked that an address to the King upon so awful a subject as the present state of Ireland should have been rejected without one single syllable being said by the King's Ministers upon the subject.

2ndly, Because I look back with pride to that law which our ancestors obtained, which says, 'No freeman shall be taken or imprisoned, or disused of his freehold or liberties, or free customs, or be outlawed or exiled, or any otherwise destroyed, nor will we not pass upon him, nor condemn him, but by lawful judgment of his Peers, or by the law of the land; we will sell to no man, we will not deny or defer to any man in their justice or right.' And because I agree with the commentary of that great lawyer, Sir Edward Coke, upon this chapter of Magna Charta, wherein he says, 'No man destroyed, that is, forejudged of life or limb, disinherited or put to torture or death.' And because I think that to flog, picket, and half-hang any of our fellow-subjects in order to

extort confession as a putting to torture, and therefore not only outrageous to humanity, but directly against Magna Charta, the great corner-stone of our laws and liberties; and whoever have dared to put to torture any of our fellow-subjects in Ireland or elsewhere, have violated the great Charter, have betrayed their country, and ought speedily to be brought to condign punishment for those their treasonable and detestable practices; and whoever have dared openly and publicly to justify torture upon the ground of policy, deserve the same execrations from their countrymen as have been usually given to the cruellest inquisitors of Rome.

3rdly, Because whenever our brethren and fellow-subjects in Ireland or elsewhere, are flogged, picketed, half-hanged, and otherwise tortured, in order to extort confession, I hold it to be the bounden duty of every man in his different station to use all the legal means in his power to declare his abhorrence of such diabolical and tyrannical measures.

4thly, Because I hold that when an Irishman is tortured, an Englishman is tortured; for the same men, who in violation of the laws of their country, and of every dictate of humanity, can dare to put to torture Irishmen, will not hesitate, when they think it expedient, to put Englishmen to torture also.

5thly, Because it is a moral truth that cannot be denied, that if men have been driven by flogging and by tortures, contrary to all law and reason, into open resistance, that the guilt and consequences of that resistance are imputable to those who flog and torture, contrary to all law and reason, and not to those who are thereby driven to resistance.

6thly, Because to flog and torture men into open resistance for the sake of employing a power in the hands of those who flog and torture, to crush that resistance, and thereby to make themselves more secure, is not only a refinement of cruelty, against which law, justice, reason, humanity, and nature cry aloud, but which the experience of all times teaches us will never answer.

7thly, Because the history of the world tells us, that is no small matter which provokes men to throw off their allegiance, and that when they have thrown off their allegiance, attention to their just demands, and protection in the enjoyment of their rights, liberties, and properties, are the only means by which an allegiance worth having can be recovered.

8thly, Because I think the times call for a declaration of those principles, and that to act upon them is the only method of healing the present discontents, and preventing the speedy ruin of our country.

Edward Harley, Earl of Oxford and Mortimer.

Against the rejection of the Duke of Bedford's motion.

Because the House having thought fit to reject the various motions respecting the calamitous situation of Ireland, which have been submitted to their consideration, in the first instance for enquiry, in the second for lenity and conciliation, and in the last for putting an immediate stop, at least, to the rigorous proceedings of the army in Ireland; where, under the name of a system of coercion, we have reason to fear that atrocious cruelties have been practised, we think it our duty to record the nature of the evidence on which we have proceeded, and on which our conviction of the truth of the facts is founded, and on that evidence to appeal in our own justification to our country, to the world, and to posterity. We affirm that the facts are undisputed, that the evidence of them is irresistible, and that the effects produced by this barbarous system, convict the authors and advisers of such a total want of wisdom, even for their own pretended purposes, as can only be exceeded by the shocking cruelty of the principles avowed, and of the practice recommended by them. We shall state some of the documents we refer to in the order of time in which they have appeared, in order to show that this system of coercion has not been hastily resorted to on the spur of an instant necessity, but that it was deliberately resolved on long before it could be justified or palliated by any of the pretences or causes which have since been assigned in defence of it.

'Dublin Castle, March 3, 1797.'

'His Excellency further authorises you to employ force against any persons assembled in arms, not legally authorised so to be, and to disperse all tumultuous assemblies of persons, though they may not be in arms, without waiting for the sanction and assistance of the civil authority, if, in your opinion, the peace of the realm and the safety of his Majesty's faithful subjects may be endangered by waiting for such authority.

'(Signed)

THOMAS PELHAM.'

On the 26th of February, 1798, Sir Ralph Abercromby declared in public orders:—

‘That the very disgraceful frequency of courts martial, and the many complaints of irregularities in the conduct of the troops in that Kingdom, had too unfortunately proved the army to be in a state of licentiousness, which must render it formidable to every one but the enemy.’

On the 18th of April, 1798, the following order was issued by Major-General Duff:—

‘The Commander-in-Chief gives this public notice, that the Lord-Lieutenant and Council have issued orders to him to quarter troops, to press horses and carriages, to demand forage and provisions, and to hold courts martial for the trial of offences of all descriptions, civil and military, with the power of confirming and carrying into execution the sentences of all such courts martial, and to issue proclamations.

‘The Commander-in-Chief calls on the general officers to procure of the magistrates the best accounts they can give of the number of arms taken from the Yeomanry and the well-affected, of arms that have been concealed, and of pikes that have been made, which are to be recovered and taken possession of by the military.

‘They are also to communicate to the people through the priests, and by one or two men selected from each townland, the purport of the following notice:—

‘That the order, if complied with, will be a sign of their general repentance, and not only forgiveness will follow, but protection.

‘That they must be sensible that it is infinitely better for them to remain at home quietly minding their own affairs, than committing acts which must bring on the ruin of themselves and of their families.

‘As it will be impossible in some degree to prevent the innocent from suffering with the guilty, the innocent have means of redress by informing against those who have engaged in unlawful associations, and of robbing houses of arms and money.

‘The people must be very ignorant not to know, that notwithstanding the fair promises of the French, that they have first deceived and then plundered every country into which they have come: and they are therefore forewarned, that in case of invasion from the

French, if they should attempt to join the enemy, or communicate with him, or join in any insurrection, they will be immediately put to death, and their houses and properties destroyed.

‘The general officers call on the people to know why they should be less attached to the government now than they were a year ago, when they showed so much loyalty in assisting his Majesty’s troops to oppose the landing of the French? Is it not because they have been seduced by wicked men?’

‘Why should they think themselves bound by oaths into which they have been seduced or terrified?’

‘The people are requested to bring in their arms to the magistrates or commanding officers in their neighbourhood, who have directions to receive them, and no questions will be asked.’

‘(Signed) JAMES DUFF, Maj.-Gen.’

On the 7th of May, 1798, the following orders were issued by Lieutenant-General Sir James Steward:—

‘Whereas it has been represented to Lieutenant-General Sir James Steward, that in some parts of the country where it has been necessary to station troops at free quarters for the restoration of public tranquillity, that general subscriptions of money have been entered into by the inhabitants to purchase provisions for the troops, by which means the end proposed of making the burthen fall as much as possible on the guilty is entirely defeated, by making it fall in a light proportion on the whole, and thereby easing and protecting the guilty, it has been thought proper to direct, that wherever that practice has been adopted, or shall be attempted, the general officers commanding divisions of the southern district shall immediately double, treble, or quadruple the number of soldiers so stationed, and shall send out regular foraging parties to provide provisions for the troops in the quantities mentioned in the former notice, bearing date the 27th day of April, 1798, and that they shall move them from station through the district or barony, until all arms are surrendered, and tranquillity be perfectly restored, and until it is reported to the general officers by the gentlemen holding landed property, and those who are employed in collecting the public revenues and tithes, that all rents, taxes, and tithes, are completely paid up.

‘*Adjutant-General’s Office, Cork, May 7, 1798.*’

On the 11th of June, 1798, Major-General Nugent, after holding out certain offers and terms to the insurgents, proceeds to declare—

‘That should the above injunctions not be complied with within the time specified, Major-General Nugent will proceed to set fire to, and totally destroy the towns of Killinchy, Killileagh, Ballynahinch, Gallitfield, and every cottage and farm house in the vicinity of those places, carry off the stock and cattle, and put every one to the sword who may be found in arms.

‘It particularly behoves all the well-affected persons who are now with the rebels from constraint, and who it is known form a considerable part of their numbers, to exert themselves in having these terms complied with, as it is the only opportunity there will be of rescuing themselves and properties from the indiscriminate vengeance of an army necessarily let loose upon them.’

But finally, the document which appears to us the most important of all, and to which we earnestly invite and press the attention of the House, is a public order issued about the middle of the present month of June, 1798, in the following words:—

‘Major-General Morrison requests, that officers commanding corps will give the strictest orders to prevent setting fire to houses or buildings of any kind, a mode of punishment that can lead only to the most pernicious consequences, and that seldom or ever falls on the guilty, but on the contrary, on the landlord, the wife and children of the criminals, who however iniquitous the husband or father, ought always to be spared and protected.

‘And he has likewise received orders from Lieutenant-General Lake, that free quarters are no longer to be permitted, neither are foraging parties to be allowed to go out, unless under the care of an officer, who is to be responsible for every act, in order that the friends of government, the helpless and infirm, may not be involved in one indiscriminate mass of destruction with the rebellious and ill-disposed.’

The prohibition contained in this order, wise and humane as it is, is equivalent to a history of all the horrible transactions it alludes to, and establishes the truth of them by evidence which cannot be disputed or suspected, and also confirms in the strongest terms, and on the irresistible proof derived from practice and experience, that such a mode of punishment seldom or ever falls on the guilty, but

on women and children, who ought always to be spared and protected, and that its principle, if not only operation and effect, is to involve the friends of government, the helpless and infirm, in one indiscriminate mass of destruction with the rebellious and ill-disposed.

Francis Russell, Duke of Bedford.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).

Henry Richard Fox, Lord Holland.

William Charles Keppel, Earl of Albemarle.

Peter King, Lord King.

Sackville Tufton, Earl of Thanet.

CCCCXLIX.

DECEMBER 17, 1798.

Parliament re-assembled on the 20th of November, and immediately on its meeting the Militia Bill of the last Session, 38 Geo. III, cap. 66 was renewed, to be continued for a month after the commencement of the next Session of Parliament. It was read a second time and committed on the 18th of December, and passed on the 19th of December; it is 39 Geo. III, cap. 5.

The following protest was inserted.

Because it is the continuance of a system, which, in my opinion, for the reasons contained in the first and second heads of the first protest of the 19th day of June last, and for many other reasons operating on my mind, and fortified by experience of the measure, is unwise, unfair, and unconstitutional, and for those contained in the third head of the second protest of the same day, was in an unfair and unconstitutional manner assented to by this House.

Jacob Pleydell Bouverie, Earl of Radnor.

CCCCCL.

JANUARY 4, 1799.

Besides continuing the Act which empowered the use of the English militia in Ireland, the Administration continued the suspension of the Habeas Corpus Act of the last Session. The Act was passed on the 4th of January (39 Geo. III, cap. 15), and it prolonged the power of the Crown till the 21st of May. The chief speakers were the Earl of Suffolk and Lord Holland against, Lord Grenville for the measure. Only one vote was recorded against it 26-1.

The following protest was inserted.

1st, Because the existence of a conspiracy of an extent so for-

midable, and of a nature so complicated, that the public disclosure of the evidence necessary to the conviction of one conspirator might enable his accomplices to ascertain the information of Government, and to elude the justice of the country, can alone constitute a necessity sufficient to justify a Peer of Parliament in assenting to any suspension of the Habeas Corpus.

2ndly, Because no measures have been taken to make such necessity apparent.

3rdly, Because if, from private information, or from the general circumstances of the country, the House were convinced that such necessity did actually exist, it would nevertheless be more consonant with the usages, and less derogatory to the dignity of Parliament, to produce substantial documents, rather than the suggestions of ministers, or the vague suspicions of individuals, in justification of so extraordinary a measure.

4thly, Because the alarms of ministers are always to be received with mistrust by the Legislature, when the remedy proposed is an extension of their power, and a diminution of the liberty of the subject.

5thly, Because these principles of jealousy, applicable to all times, appear to me to be peculiarly so to the present, when a system of Government by alarm has been resorted to year after year, and powers, similar to those required by this Bill, been obtained on the score of allegations, which subsequent events have refuted.—A memorable example of which occurred in the years 1794 and 1795, when a number of persons, detained under the provisions of a Bill similar to this, were all either liberated without trial, or acquitted by a verdict of their country.

6thly, Because the danger of an invasion (the pretence for suspending the Habeas Corpus last Session) exists no longer; and it is subversive of that mutual confidence which should subsist between the Government and the governed, to requite, with distrust in their dispositions, and a continued suspension of one of the most essential safeguards of their liberty, the affections of the people, manifested in their late exertions at the moment of alarm, and in the cheerfulness with which they have submitted to burthens unparalleled in their pressure, and now confessedly unequal in their operation.

Henry Richard Fox, Lord Holland.

CCCCLI.

APRIL 11, 1799.

The chief business of this Session was the debate on union of Great Britain and Ireland. Pitt had resolved on this measure before the outbreak of the Irish Rebellion and had matured his plans,—*Stanhope's Life*, chap. xxvii. The measure was ushered in by a series of resolutions communicated to the Lords by the Commons, and debated on in a conference of both Houses on the 18th of February. These were agreed to (seven in number) on the 19th of March, *Lords' Journals*, vol. xlii, p. 98. The debate in the Commons on the *Kings' Message* (on the 22nd of January) was taken on the 28th of January (*Parliamentary History*, vol. xxxiv, p. 210), and the report on the resolutions was carried by 120 to 16. The subjoined protest was on an address to the Crown, relative to the message of the 22nd of January.

1st, Because the measure of a legislative union between Great Britain and Ireland, the policy of which is highly questionable, and the importance of which demands the most calm, dispassionate, and deliberate examination, is persisted in and urged forward, in compliment to his Majesty's ministers, under circumstances which ought imperiously to have deterred us from the prosecution of it. The moment of civil disturbance and division, when the necessity of military law is alleged by ministers and acknowledged by Parliament, seems ill-calculated for insuring the full and unequivocal consent of the Irish people, without which even the supporters of the measure must confess it to be illusory and dangerous in the extreme. And to commit the Parliament of Great Britain to the wisdom of a project, which the Commons of Ireland have rejected, and to which the inhabitants of that Kingdom are disinclined, appears to us a whimsical expedient for securing the connexion of the two countries, and consolidating the strength of the Empire.

2ndly, Because, as no jealousy or division has existed between the two Legislatures, the present dangers and discontents in Ireland cannot be attributed to the independence of her Parliament, but must rather be considered as the bitter fruits of a coercive system of policy, suggested by his Majesty's advisers, and enforced under the sanction of the executive power with unconstitutional and wanton severity.

3rdly, Because, though the possibility of a different will in the two separate Legislatures cannot be controverted, yet possible

inconveniences in remote and extreme cases, from supposed legislative measures, or possible instances of additional embarrassment to the Executive Government, are no arguments for the subversion of a system in which no such inconveniences have been experienced, and no such difficulties encountered. For the consequences of such reasoning would lead us to consolidate into one the different branches of our own excellent Constitution ; to remove all the checks which the jealousy of our ancestors has imposed on the Executive Government ; to condemn whatever theory might suppose difficult, though practice had shewn it to be easy ; and to substitute hypothesis and speculation for history, fact, and experience.

4thly, Because the notion that a legislative union will either conciliate the affections of the discontented in Ireland, or furnish more effectual means for defeating the designs of the enemy in that country, seems unsupported by reasoning, and in direct contradiction to analogy and experience. Were we to admit the beneficial consequences of a union, yet the benefits which, according to such hypothesis, are likely to result to Ireland from the measure, are, at best, progressive and distant, and can furnish, therefore, no reasonable hope of allaying immediate discontents, suppressing actual rebellion, or defeating designs already on foot. If, indeed, the enemies of the connexion endeavoured to effectuate a separation of the two Kingdoms, by sowing jealousies and dissensions between the two Parliaments (as was the case in Scotland, immediately previous to the Union), the measure proposed would manifestly be an effectual, it might be represented as the only remedy for the evil. But if it be true that their object is to disseminate jealousy and foment discontent, not between the distinct Legislatures and Governments of England and Ireland, but between the people and Parliament, between the governed and Government of that country ; and if by representing their Legislature as the corrupt agent of British ministers, and slavish engine of British tyranny, they had succeeded in alienating a large portion of his Majesty's subjects ; and if it be farther true, as stated in the report of the committees of secrecy of the Irish Parliament, that the misrepresentations of a few individuals have been found sufficient to seduce the allegiance of one whole province in Ireland, we are indeed at a loss to conceive how the danger of such designs is to be averted, or the force of such

misrepresentations diminished, by a measure which reduces the number of representatives of the Irish people, transfers the legal organ of their will out of the bosom of their own country, and annihilates all independent and exclusive authority in that Kingdom.

An examination of the immediate consequences which the Union formerly produced in Scotland, and a contemplation of the recent effects of its discussion in Ireland, suggest yet stronger reasons for doubting its efficacy either in healing discontents, or furnishing the means of resistance to any attempt of the enemy.

We learn from the most authentic documents of those times, that in Scotland its agitation produced disorder and tumult; that six years after it passed, nearly all the Scotch Peers voted for its dissolution, and founded that vote on the discontents it had occasioned; that it remained, for a long period, a subject of sullen discontent; that a promise of its dissolution was considered by the agents of the Pretender as advantageous to his cause in Scotland; and that two rebellions broke out in that Kingdom, subsequent to its accomplishment.

Furthermore, from what information we have been able to procure, we observe with the deepest concern and alarm, that its discussion in Ireland has already been attended with the most fearful symptoms. From the increased powers with which it has recently been deemed necessary to arm the Executive Power, we cannot but infer, that the prospect of an incorporating union has failed to conciliate the minds of the disaffected, and from the ferment occasioned by its discussion, it is evident that all other parties in Ireland are alienated or divided, and the means of resistance, in case of insurrection or foreign invasion, thereby materially weakened.

We thought it therefore more prudent, in this moment of alarm, to desist from the prosecution of a measure, which might become a fresh subject of complaint and a new source of discontent and division; and we were more disposed to seek for the establishment of mutual confidence in the adoption of conciliatory laws, in the removal of odious disabilities, in the redress of grievances, and the operation of a milder system of policy on the affections of the Irish people, than in any experiment of theory and nominal union of Governments.

5thly, Because at a time when the danger of innovation has been deemed a sufficient pretext for the continuation of abuses, the suspension of improvement and the preservation of a defective representation of the people, we cannot regard without jealousy and alarm, an innovation of direct contrary tendency, *videlicet* the introduction of a number of members into the British Parliament from a Legislature, one branch of which has acknowledged the imperfection of its own Constitution, and against the other branch of which the sale of peerages has been publicly alleged, and as publicly offered to be proved.

And however invidious it might be to cite any example in confirmation of such opinion, we are not so blind to matters of notoriety, or so deaf to the lessons of experience as not to apprehend, from a measure of this nature, an enormous increase of the influence of the Crown; neither could we perceive, either in the present temper of the Irish people, inflamed by civil animosity and exasperated by recent rebellion, or in the general moderation of his Majesty's present advisers, anything to allay our apprehensions or remove our jealousies, and we were unwilling to give our consent at a period when new burthens are every day imposed and new sacrifices every day required of the people, to a measure which must supply additional reasons for doubting the adequacy of their representation and suspecting the independence of Parliament.

Henry Richard Fox, Lord Holland.
Sackville Tufton, Earl of Thanet.
Peter King, Lord King.

CCCCLII.

JUNE 20, 1799.

The Act, 38 George III, cap. 79, for the more effectual suppression of societies established for seditious and treasonable purposes, &c., was read a third time and passed on the 20th of June. In the course of the debate it was moved and carried that the Act should not apply to Freemasons' Lodges. This was objected to, and the following protest was inserted.

Because I cannot think it becomes the wisdom of any Legislature, at any time, to recognise a society, whose numbers, members, motives, tenets, and pursuits, are unknown to it, and studiously concealed, especially when concealed through the medium of oaths

administered by assumed, and therefore (in my opinion) unlawful authority; and much less, that it becomes the prudence of this House to do so, at a time, when it is notorious, that the supposed obligation of such oaths has been the actual mean of the mischiefs which the societies suppressed by this Bill have effected, and been endeavouring, as asserted by this Bill, to effect in Ireland; and when it is still more notorious, that societies (the same in their origin, their profession, and their name) have been the instrument, by the mean of such oaths, and such secrecy, of shaking to their foundation, in a considerable part of Europe, every establishment, civil and ecclesiastical.

The present innocence of this society, as existing in Great Britain, asserted in debate, but not proved (and for my own part believed, but not known), ought not, in my opinion, even though it had been proved, or known, to have been the pretext for disfiguring so salutary a Bill by an exception, and this a permanent exception, in its favour; since it is evident, that the essential secrecy of the society of Free Masons has a natural tendency to facilitate treasonable and seditious practices; and since it is historically true, that it has already been the instrument of giving such practices effect to an unexampled extent.

Jacob Pleydell Bouverie, Earl of Radnor.

CCCCLIH.

JULY 4, 1799.

By certain Acts of Parliament passed in the 7th of Queen Anne, and the 17th of George II, the penalty of forfeiture in cases of treason was made to terminate with the death of the Pretender and his sons. The House of Stuart was not yet extinct in the male line, for the Cardinal York survived till 1807. But the Government was desirous of extending the principle of forfeiture, and Mr. Abbot, on the 9th of May, moved for leave to bring in a Bill (afterwards 39 George III, cap. 93) which by modifying the Acts above referred to, extended their provisions. He avowed that his object was to repress 'traitors in higher situations in life.' A debate on the Bill going into committee was held in the Commons on the 25th of June, and the Bill was carried by 57 to 8, Sir Francis Burdett and Mr. Hobhouse being tellers for the minority. It was debated in the Lords on the 4th of July, and was strongly opposed by Lord Holland, but was carried by 8 to 4.

The following protest was entered.

1st, Because this Statute, which it is by this Bill proposed to

make perpetual, appears to us to be unjust and impolitic, and contrary to the mild spirit of the laws of England ; unjust, because it reduces to poverty and ruin children for the crimes of their ancestors ; impolitic, because instead of healing the divisions and animosities occasioned by civil war, it tends to make them continue.

It appears to us to be contrary to the express declaration of Magna Charta, which says, ' That no person shall be disinherited or deprived of his franchises, unless he be heard in his defence, for in this case we disinherit persons who cannot be heard, and who have committed no crime.

2ndly, Because it does not appear that any urgent necessity calls for the immediate adoption of this law at this late period of the Session, when it cannot receive the due consideration which a question of this sort deserves, and when the attendance is so thin in this House.

3rdly, Because we have the satisfaction of thinking it is not necessary for the preservation of his Majesty, whose Throne cannot be more secure by severe penal Statutes : we therefore will not agree to destroy that hope which Sir William Blackstone exultingly says our posterity may entertain, that corruption of blood may one day be abolished and forgotten.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).
Henry Richard Fox, Lord Holland.

CCCCLIV.

JULY 8, 1799.

A Bill was brought in for augmenting the salaries of the Judges at Westminster Hall, and for enabling the King to grant annuities to persons in those courts, on resigning their offices. The Lords extended the operation of the Act to Scotland. It is 39 George III, cap. 110.

The following protest was inserted.

Because I am decidedly of opinion that the Bench of Judges can have no equitable claim to any increase of salary, or any addition to the pension, in consequence of resignation (from whatever cause that resignation may arise) till they shall have shown an avowed and actual disposition to rectify the frauds and collusions of inferior practitioners, and till they shall have strenuously and virtuously exerted their utmost influence and abilities in rendering the proceedings of

the superior courts themselves less complex, less intricate, less dilatory, and less expensive.

Willoughby Bertie, Earl of Abingdon¹.

CCCCLV.

JULY 9, 1799.

By 39 George III, cap. 107, stamp duties on bills of exchange and promissory notes for small sums of money were granted. If the note or bill was £1 or £1 1s., the stamp was to be 2d.; if for 5s., a halfpenny. If the note or bill were payable in two different places, the duties were to be double. The Act enabled the Bank of Scotland and the Royal Bank of Scotland to issue notes for 5s. in addition to those for £5, £1, and £1 1s., and without stamps, which duties were levied on the issues of other Scotch banks.

The following protest was entered.

Because the wisdom and justice of Parliament did not think fit to grant peculiar advantages to the Bank of Scotland, and Royal Bank thereof, when particularly applied for in the year 1784.

Because no ground for peculiar exemptions, or advantages, in favour of these Banks has since that period been laid before Parliament, or applied for.

Because the Bank of Scotland, and Royal Bank, have not, in this instance, proved that they are entitled to any special exemption or accommodation in their favour.

Because a peculiar exemption, or accommodation, may tend to give those Banks advantages which may prove injurious and detrimental to the interests of other banking societies in Scotland, of great capital, credit, and responsibility, under the peculiar hardship of such banking societies not being heard in their own behalf.

Because such exemption being given by clauses in a Bill, which is for the raising of part of the supplies of the year, at this late period of the Session, precludes the parties, who may be affected by such exemptions (some of whom are at the distance of four or five hundred miles) from petitioning to be heard for their interests.

And, lastly, because the granting peculiar exemptions in favour of two chartered banks may tend to create a sudden degree of mono-

¹ Lord Abingdon had a short time before attacked an attorney in the House of Lords in a very vigorous speech. He afterwards published his speech, was prosecuted for libel, was fined £100, and imprisoned for three months.

poly in the circulating paper currency of Scotland (the consequences of which cannot be foreseen) by which the agricultural, manufacturing, and commercial interests of that country, at present in the highest state of prosperity and opulence, may be checked or affected, to the loss and prejudice of the public interest.

James Murray, Earl of **Strange** (Duke of Atholl).

Robert Hay Drummond, Lord **Hay** (Earl of Kinnoull).

John Dalrymple, Earl of **Stair**.

CCCCLVI.

JULY 10, 1799.

The Act 39 Geo. III, cap. 106,—which lasted in force for three years,—provides for the reduction of the Militia, fixes the number of militia-men and volunteers in each county, provides a ballot for deficiencies, facilitates the entry of such men into the regular forces, gives a bounty of £10 10s. to all who enlist, orders the commanding officers of militia regiments to explain the terms under which the men may enlist into the regular forces, provides that the militia may be reduced to a fourth of the quota, and makes other provisions. On the proposal that the Bill be read a third time on the 11th of July, it was moved to substitute ‘this day three months,’ the protest of the 28th of May, 1795, being previously read. But the amendment was rejected.

The following protest was entered.

Because the measures prescribed by the Bill are destructive of the constitutional force of the country, by making the militia ballot a fund for the supply, and its discipline a drill for the accommodation of other corps, and by degrading its officers to the humiliating situation of commanding the miserable remnants of their regiments, rejected by recruiting serjeants of the line.

Because the subversion of this constitutional force must be the inevitable consequence, as it is probably the object of these measures; for it cannot be imagined that gentlemen of property (such as are required by the still remaining wreck of the militia laws) should hereafter come forward in times of difficulty and danger, with a zeal and patriotism so much applauded, and so bitterly insulted; that men of the highest consideration and fortune, such as alone can form a constitutional force, should quit their domestic comforts and family occupations without personal views, or professional allurements, to fill a station so degrading to them as that of drill serjeants for the army; but exclusive of this great and

insuperable objection, we consider this Bill as framed under circumstances of gross inattention to the public interest; to private rights of various descriptions; and to the clearest and most important principles of the constitution; and we should esteem ourselves neglectful of our own characters, as well as deficient in public duty, if we did not record our marked and unreserved reprobation of a measure of such dangerous tendency.

1st, Because the promoters of this Bill have, contrary to every principle of common justice, established an arbitrary proportion, by which the respective counties are hereafter to be burthened with the expense of raising their future militia, deviating from the established scale, approved and sanctioned by the Acts of the 26th and 37th of the King, without any grounds laid before Parliament, by which the justice of such deviation could be estimated; though in a few days, and with no expense, the annual list for the county ballots returned to the Lieutenants of each County, and directed (by the 26 Geo. III, cap. 107, clause 50), to be transmitted to the Secretary of State, would, without error, have produced a correct scale.

2ndly, Because all militiamen, not arriving (after their enrolment) at their respective regiments, at the exact time contained in any order which may be given to them, are declared to be deserters, liable to be taken from service in the militia for five years within the Kingdom, and condemned to serve in regiments of the line for life, in any part of the world, by sentence of a regimental court martial, where neither the judges nor the witnesses are upon oath; and by an additional injustice, the County which paid the service of the man is liable to the further charge of supplying his place.

3rdly, Because the difficulties and embarrassments which men enrolled to serve in the militia are exposed to by this Bill, are so obviously cruel and unjust, that it affords no slight ground of suspicion, that they are intended to promote the recruiting the regular forces from the militia, by the forced desertions of the unfortunate individuals who shall be engaged in the militia service; for the man, as soon as he is enrolled, perhaps many hundred miles from his regiment, is ordered to join it; but by this Bill, no pay is to commence, nor allowance to be granted, till he actually arrives at his regiment; he is deprived of all former sources of subsistence, and is not entitled to the means of present support; plunder or

charity alone can maintain him on the road, and if under all these insurmountable difficulties, he does not arrive within the time limited in his orders, he is liable to be treated as a deserter.

4thly, Because by this Bill the regiments of militia are invited to a state of disorder and mutiny, by anticipation; as the Bill has publicly declared that desertion, before the period of its passing into a law, was to be made an offence not necessarily followed by punishment; but that every man may, by such desertion, take leave of absence till August, if by that time he shall enlist into the regular service; the Bill encourages immediate desertion from a service to which the man had sworn fidelity, and the King is empowered to authorise the deserter's entrance into another service, discharged from any claim by the militia regiment to which he belongs.

5thly, Because by this Bill the most important and incontrovertible principle of the constitution is flagrantly impeached. Whether it is legal or not to appropriate public money by an order of the Commissioners of the Treasury, and levy money on the landowners by a similar order, without consent of Parliament, is stated by this Bill as a matter of doubt entertained by Parliament; and on the grounds of this pretended doubt, a clause of indemnity is introduced, of which the title of the Bill gave no intimation, and to which the attention of the Legislature had not been directed.

In this general neglect, overthrow and denial of private justice, public principles, and national rights, it is not to be wondered at that little attention should be paid to the feelings of individuals, however called by their country to stations of considerable confidence and trust; yet we cannot but express our disapprobation of the grating directions to commanding officers of militia regiments to crimp for another service their associates and fellow soldiers, and become at once the instruments both of their own disgrace, and of that of the militia establishment to which they are zealously attached.

Henry Herbert, Earl of Carnarvon.

Jacob Pleydell Bouverie, Earl of Radnor.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

CCCCLVII.

OCTOBER 4, 1799.

The reduction of the numbers of the militia, by facilitating their entry into the regular forces, was continued after the Houses had re-assembled by 39 and 40 Geo. III, cap. 1. The Bill was introduced into the Commons by Dundas, and passed with little opposition. In the Lords it was opposed on the second reading, but was carried without a division. The following protest was entered.

1st, Because, by this Bill, and by the recited Act of the last Session, whose powers are by this Bill aggravated and extended, the constitutional purposes of the militia establishment are totally and finally subverted.

2ndly, Because all the purposes of procuring men for the army might have been easily obtained, by disbanding the supplementary war militia (which by its extraordinary increase had confessedly occasioned a scarcity of men), without reducing the permanent militia establishment to a service in which no gentleman could hereafter hope, that his patriotic and disinterested industry, would enable him to form his county regiment to a continued state of discipline, at the head of which he might with credit and honour to himself answer the purpose of his institution in the defence of his country against invasion.

3rdly, Because by this measure, all that system and arrangement which nourished the zeal of independent country gentlemen, is irrecoverably done away, in the existing pressure of a formidable and alarming war; and the peace establishment of militia (if mangled as it is by this Bill, it can survive the war), will necessarily be reduced to a mere standing army of the worst sort, independent of an annual vote of Parliament; deprived of all its former constitutional advantages; connected with the people by nothing but the unequal and oppressive burthens it imposes on them, and commanded by such persons, may be procured to be regulating officers to a mere drill of army recruits.

4thly, Because the landed interest of England and Wales, already so heavily burthened, is most materially affected by this total revolution in the militia system, inasmuch as the peculiar expenses of a militia originally formed for our unalienable domestic defence, and insular garrison, are unjustly continued on the oppressed owners

and occupiers of land in England and Wales, when they are by this measure deprived of the advantages which they had purchased, namely, those of security resulting from a permanent domestic protection for their wives and children, which under the faith of Parliament was held out to them, as the valuable consideration for heavy taxes imposed solely on them.

5thly, Because this Bill operates with most unjustified partiality; it does not fairly and equally extend to Scotland; Scotland is still protected in the enjoyment of a constitutional militia; neither reduced to the disgraceful condition of a drill for the army, nor liable to be employed in the defence of England; from its services (confined and limited solely to the boundaries of Scotland), England and Wales can desire no protection, whilst the reduced remnants of the militia of England and Wales may be removed from the defence of their own homes, to that of the most remote parts of Scotland.

Henry Herbert, Earl of Carnarvon.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

All but the second reason.

George Hobart, Earl of Buckinghamshire.

CCCCLVIII.

JANUARY 28, 1800.

On the 22nd of January, 1800, the King sent a message to Parliament, recommending the grant of supplies for a vigorous prosecution of the war, and laid certain correspondence on the table. On the motion for an address, Lord Grenville defended the action of the government in declining the overtures of the First Consul, and was answered by the Duke of Bedford, who moved an address expressive of regret that the overtures for peace had not been met. But the amendment was rejected by 92 to 6; the minority being the Duke of Bedford, Lords Albemarle, Ponsonby, Holland, King, and Camelford. The following protest was inserted.

Because the address adopted by the House directly approves the rejection of an overture for peace, when that invaluable blessing might very probably be attained with honour and security, by opening a negotiation with the French Republic, and indirectly approves of the language in which the rejection of the offer was conveyed to the French government; a language which, in my opinion, can only tend to widen the breach between the two

countries, to exasperate the enemy, and prolong the calamities of war.

Henry Richard Fox, Lord Holland.

CCCCLIX.

FEBRUARY 20, 1800.

On this day, Lord Stanhope moved an address, in which he commented on the mischief of war and its immorality, on the expense of the war with France, on the serious effect produced on the nation by the war, concurrently with the great scarcity which prevailed, and on the impropriety of attempting to restore the House of Bourbon. In his speech he argued that the revenue from land was only £43,000,000, and that even if peace could be immediately attained, the deficiency caused by the necessary expenditure would amount to £1,354,000. In the course of his speech he desired that his own protest of the 1st of February, 1793, should be read. The Lord Chancellor (Loughborough) after the speech of Lord Stanhope, which he described as a visitation of God, adverted to the irregularity of Lord Stanhope having quoted from the past proceedings of the House. It seems however that the proceeding was completely in order. Only one Lord (Camelford) voted with the contents (26 to 2).

The following is Lord Stanhope's protest.

1st, Because I have uniformly considered the war against the French Republic as both unnecessary and unjust.

2ndly, Because I feel revolted at the idea, that the blood of my fellow men is still to continue to be spilt for an unjustifiable object; namely, in order to endeavour to re-establish in France the ancient despotism, and to restore to the Throne the Bourbon family, the hereditary princes of which race have, for so many centuries past, disturbed the peace of Europe, and threatened the liberties of this country.

3rdly, Because this war against the French Republic has already operated in a very powerful and dreadful manner to increase the present scarcity of corn in Great Britain; first, by the enormously increased consumption and waste arising immediately from the war; secondly, by the decrease of agriculture, arising from so many thousands of men having, for some years past, been taken from the plough, for the navy, army, and militia; thirdly, by the check which it has given to the making of canals, the draining and the flowing of lands, and sundry other agricultural improvements; fourthly, by the failure of many commercial houses, and embarrass-

ment of others, by which means much private capital has been diverted, which might have been employed in procuring corn from abroad; fifthly, by the public funds having been diverted to the purposes of war, unsuccessful expeditions, and foreign subsidies, and to the building of barracks, which might and ought to have been usefully employed in building public granaries, and in providing corn for the people; sixthly, by diverting such an immense quantity of shipping from being employed in importing corn into this country; and seventhly, by depriving this nation of the immense advantage of receiving corn from several of the most fertile countries in Europe, especially from the Netherlands and other parts of France.

4thly, Because the continuance of the present war is in the highest degree alarming, since the effects which must inevitably arise from the further prosecution of the war, when added to the baneful effects which it has already produced, threaten this nation with absolute want and famine; the more especially if another unfavourable harvest should still more increase those calamitous effects which the persevering in this war must, of itself, unavoidably produce.

And 5thly, Because my mind is seriously impressed with the present most extraordinary and awful situation of Great Britain, which, with an immense navy, immense credit, immense trade, and the seas at her command, is now at the eve perhaps of famine, and of all its consequent horrors; whilst France, a neighbouring Republic, without commerce, and which has been by his Majesty's ministers attempted to be inhumanly starved by a blockade is now, by means of its internal resources alone, possessed of the most essential necessities of life.

Charles Stanhope, Earl Stanhope.

CCCCLX, CCCCLXI.

MAY 7, 1800.

The Articles of the Union of Great Britain and Ireland were discussed in a conference held between the two Houses on the 6th of May. They were eight in number. The first defines the style of the Kingdom; the second the limitations of the Succession; the third the style of the Parliament; the fourth the constitution of the quota which Ireland should contribute to the British Parliament, viz. four Lords spiritual, by rotation,

twenty-eight lords temporal, for life, and 100 commoners ; but allowing Irish Peers to sit for English constituencies, such persons losing their privileges in the interval, and providing for the filling up of vacancies in the Irish peerage ; the fifth unites the two churches ; the sixth regulates the trade of the two Kingdoms ; the seventh declares the proportion of debt payable by Ireland ; and the eighth defines the constitution of the law courts and the process of appeal. The debate on the Union is to be found in Parliamentary History, vol. xxxv, p. 178. The first three resolutions were agreed to with little difficulty, but many amendments were offered on the fourth. In particular it was suggested that the precedent of the Scotch Union should be followed, and that Irish Peers should be disabled from sitting in the United Parliament. This proposal was negatived, and the following protests were inserted.

Because the Union of Great Britain and Ireland, highly desirable in itself, is, by part of the fourth Article of the Resolutions, made the instrument of subverting the most valuable principles of the constitution of both countries.

Because the wise and safe precedent of the Scotch Union has been unnecessarily deserted, though it afforded an irrefragable proof that the union of two nations may be effected to their mutual interests, without any permanent deviation from the ancient and approved practice, or the slightest invasion of the principles of a Constitution, to which, in its present form, our attachment has increased with the dangers that have so often threatened it from within, as well as from without.

Because the Constitution of Great Britain has been from time immemorial composed, and it is still the unalienable right of the nation that it should be composed, of three distinct branches ; namely, the King as Sovereign, an hereditary peerage, united with the baronial heads of the Church, and the commonalty represented by delegates from their own body : the distinct character, stations, and interests of these three branches, correct the defects of each other, and from the opposition of these politic elements a public good results, which has rendered the Constitution of this country the idol of its possessors, and the admiration of the world ; the sudden ebullition of popular violence in an elective and fluctuating body of the Commons, and the sober weight and permanent influence of an hereditary peerage, have alternately repressed the encroaching tyranny, or protected the oppressed power of the Crown : the framers of the Scotch Union, bred in the principles of the Revolution, knew too well how to appreciate the Constitution, to be

induced to confound all orders, ranks, and interests, in arranging the representation of the united commonalty of the two countries, by permitting Peers to represent Commoners convertibly, Commoners to represent Peers already previously represented in the House of Peers, disordering the inalienable principles of our Constitution which our ancestors maintained with their blood from Magna Charta to the present moment; to such propositions, as those we have heard with patience, their love of the principles of the Constitution, would have made them answer with their former spirit, *Nolumus Leges Angliæ mutare*; the framers of the Scotch Union did not subvert the principle by the necessary admission of a temporary deviation from the practice, by sending an elective portion of their Peers to sit in the hereditary branch of the Legislature; for in the compensation of individual interests, as far as the more important interests of the Constitution permitted, they wisely provided for the continual diminution and final termination of the evil, by the gradual extinction of that body which, during its existence, made representation necessary, they did not imagine that the interests of Scotland could be balanced or repaired by a gross violation of the Constitution they desired to adopt, or that a perpetual renovation of a local Scotch Peerage grown useless by the Union, should be admitted, in order that a perpetual election should take place, to the eternal exclusion of the hereditary principle of the British Peerage, in which the English and Scotch nation became equally interested, and to the eternal disunion of two nations they laboured to unite.

Because the proposed system of union with Ireland disorders the frame and texture of two branches of the Constitution, and exposes the other to all the fury of popular and Jacobinical frenzy, by destroying the bounds which limited and confined the several ranks and distinctions of the Commonwealth to their proper spheres, in which their respective energies were preserved unmixed for every useful, and counteracted by each other in every pernicious propensity; the commonalty of the United Empire will (if the Union should take place in the proposed shape) no longer be represented by delegates from their own body, the two classes of Peers and Commons will no longer be distinct, Irish Peers will sit with Irish Commoners in the same House, where being British Peers, they will represent British Commoners; the hereditary

branch of the Legislature will become permanently an elective body, as far as the Irish Peers are concerned, by the unconstitutional renovation of that body, by subsequent creations for the sole purpose of being represented for life in a House whose constitutional principle is, that of being an hereditary barrier against elective and popular violence.

Because, in direct breach of the numerical proportion of representation between Ireland and England, accurately stated from given data, the whole proportion is arbitrarily and unreasonably changed, by a diminution of the British, and augmentation of the Irish interests, by as many Irish Peers as British boroughs may be corruptly or otherwise induced to elect into the House of Commons, forced upon the representatives of the British Commoners.

Because the proposed Union has been so manufactured, as to bury the Constitutional Legislatures of both countries in one common grave; the representatives of Ireland will not find here the Constitution they have renounced, nor that which they have been accustomed to admire; they will be received as persons who have bargained for the destruction of our Constitution by the surrender of their own, or we shall condole with them, as having been mutually defrauded of our most valued rights.

Henry Herbert, Earl of Carnarvon.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

For the last reason only.

Henry Richard Fox, Lord Holland.

Peter King, Lord King.

1st, Because it is contrary to the fundamental principles of the Constitution that Peers of the realm should have seats in the Commons House of Parliament, as representatives of the people.

2ndly, Because it is contrary to the principles and practice of the Constitution, that a Peer of the realm should make a temporary and occasional surrender of the rank and privilege of his Peerage, at one time becoming a Commoner by the exercise of the elective suffrage of the people, and again becoming a Peer by the exercise of the royal prerogative in the dissolution of Parliament.

3rdly, Because there is no example in the Parliamentary history of this country, of the same persons standing at once in the double relation of constituents in the House of Lords (by the delegation of

their proxies to representative Peers elected by them) and of representatives in the other House of Parliament, sent by the suffrages of the people to sit in their name, and on their behalf, in that assembly, such an innovation being no less dangerous than anomalous, at once confounding the functions, and subverting the distinctions, assigned to the different orders of the State, as established by the Constitution.

4thly, Because by this measure a great majority of Irish Peers, being rendered dependent upon popular favour for their political activity, the chief weight and influence of the Irish Peerage may be thrown into the popular scale, thereby weakening that barrier against the encroachments both of the Crown and the people, by which the rights of both are supported and secured.

5thly, Because it is contrary to all precedent, and further tending to destroy the distinction of ranks, as established by our happy Constitution, that Peers of the realm, deriving from their rank in the State, inherent, hereditary privileges, independent of those attached to Parliamentary functions, should suspend and renounce those privileges of Peerage on account of Parliamentary stations, distinct from those to which they are destined by the principles of the Constitution, and most particularly the renunciation of the privilege which is secured by Magna Charta to the meanest subjects, that of being tried by their equals; exhibiting perhaps to the country, by that renunciation, the same person at one time tried as a Peer, in the court of the Lord High Steward, and at a subsequent period by a common jury, in the ordinary criminal courts, or on the other hand, two Peers of equal rank tried respectively, at the same time, and for the same offence, before those different tribunals; a confusion of judicature and transmutation of ranks, totally inconsistent with the whole tenor of criminal proceedings, and constitutional distinctions, from the time of Henry the Third.

6thly, Because the only alleged ground of this measure (the personal convenience of a few English gentlemen, who hold rank as Peers of Ireland), being a partial and temporary consideration, is not of sufficient weight to set aside ancient and important principles, solemn and invariable practice, or in any way to influence the provisions of a great national measure, momentous, irrevocable, and unalterable.

Henry Phipps, Lord **Mulgrave**.
Thomas Dundas, Lord **Dundas**.

CCCCLXII.

MAY 8, 1800¹.

The first order of the day was to take into consideration the address delivered by the Commons at the conference of the 6th of May, and the first motion was to agree with the Commons in the said address, by introducing the words 'the Lords Spiritual and Temporal.' This was objected to, but carried, and then the address was agreed to.

The following protest was entered.

1st, Because the resolutions themselves prove the impracticability of a complete union in the present circumstances of the two countries, inasmuch as they do not provide for the identity of the two countries, in the important considerations of peerage, taxation, and commercial intercourse.

2ndly, Because we believe the measure of a Legislative Union is against the sense of the people of Ireland, and therefore unjust in its principle, and dangerous in its consequences.

3rdly, For the reasons contained in the second, third, fourth, and fifth reasons of a Protest entered the 11th of April, 1799.

Henry Richard Fox, Lord **Holland**.
Peter King, Lord **King**.

For the first and second reasons.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
Thomas Dundas, Lord **Dundas**.

CCCCLXIII.

MAY 23, 1800.

On the 16th of May Lord Auckland introduced a Bill, under the title of 'A Bill for the punishment and more effectual prevention of the crime of adultery.' The chief provision of the Bill was that it precluded the woman who had been convicted of the offence from marrying her seducer².

¹ Seventy-three Irish Peers voted for, twenty-one against the Union. Twenty of the minority signed a strong protest against the Act. The names include those of the Duke of Leinster, Lords Moira and Charlemont,—*Irish Lords' Journals*, vol. viii. p. 464.

² In the case of Taylor's Divorce Bill (March 19, 1801), when the Duke of Richmond wished to insert a clause forbidding the marriage of the adulteress with her seducer, the Lords rejected the clause by 56 to 29.

This Bill was in substitution of one which had been introduced on the 2nd of April, and the second reading of which was carried by 30 to 11, but which Lord Auckland did not think sufficiently strong. The Bill of the 16th of May was opposed by Lord Moira, the Duke of Clarence, and Lord Mulgrave, and defended by Lord Eldon, the Bishop of London, and Lord Grenville on the second reading. It was attacked by Lord Coventry, Lord Westmorland, Lord Carlisle, the Duke of Bedford, the Duke of Cumberland, and supported by Lord Eldon and the Bishop of Rochester, on the third reading, which was carried by 77 to 69. It was lost in the Commons by 143 to 104.

The following protest was inserted on the third reading.

1st, Because this Bill appears to me to be inefficacious for the purpose which it professes, and more likely to increase than diminish the evil; and that its proper title should have been 'A Bill to conceal adultery and prevent divorcees.'

2ndly, Because in those nations where divorces are prohibited, the morals of the people are much worse than in this; and where they are allowed, but the woman is prevented from marrying the adulterer, as in Scotland, it has not been made appear that this crime is less prevalent than in this country. I therefore do object to these clauses, as I consider them founded on mistaken and immoral principles; on mistaken, because there is scarcely a single instance where it can be made appear that the adultery has commenced from this object; on immoral and unchristian principles, because they place the woman in a most miserable situation, and shut the door to all incitements to repentance, or hope that by her future virtuous conduct she might atone to society for her former faults, and they cruelly condemn all the children which she may have to bastardy. Whereas, as the law now stands, it is proved by experience in every instance where the second marriage has taken place, the parties have led domestic and happy lives, and been useful members to society. This it was insisted in debate was a bad example, but it appears to me, it would have been a far worse one if, instead of the divorce taking place, the adulteress had continued to live on with her gallant, or if, after being divorced, she had lived on with the man unmarried. I therefore must think, that the cause of religion, public order, and decorum, cannot be furthered by this restriction, and am unwilling to agree to such material alterations in the law of England, being hurried through this House on merely a speculation that some good may be produced, where there is so

little prospect of success, from any example which has been brought from any country, where this has been tried. These reasons appear to me sufficient for the vote I have given to reject this Bill, and I trust will exculpate me from the unwarrantable charge which was made in this night's debate, against those who opposed this Bill that they were encouragers of adultery.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).

CCCCLXIV.

MARCH 23, 1801.

The Irish Parliament had put the country under martial law, but had limited the Act to the 25th of March, 1801, on the plea that large powers were needed to suppress the rebellion. Lord Castlereagh moved on the 12th of March, in the Commons, for the continuance of the Act. The Bill was passed on the 20th of March. It was sent the same day to the Lords and read a first time, a second time on the 21st of March, and a third on Monday, the 23rd of March. The Bill was opposed by Lord Fitzwilliam, Lord Moira, Lord Holland, and others, and defended with great vehemence by Lord Clare.

The following protest was inserted.

1st, Because it appears to us to be useless and unadvisable to attempt to provide for possible cases of extreme necessity by Legislative Acts; since the effect of such cases is to supersede all legal provisions. A state of things, in which the ordinary course of law and justice in a civilised country must be suspended, cannot be legally supposed. Necessity, whenever it occurs, will dictate its own measures, without regard even to the law that provides for it; and those measures, in our own judgment, should be left, in every instance, to a special justification on the merits of the case. With respect to the case of rebellion said to exist in Ireland, it is particularly superfluous to give or to confirm by Act of Parliament to the Crown, or to its representatives, a power to act by discretion, considering that by the laws passed in Ireland, and which it is now proposed to continue, it is repeatedly declared, though not as we conceive on true constitutional principles, to be the undoubted and acknowledged prerogative of his Majesty to resort to the exercise of martial law for the public safety.

2ndly, Because, were it ever advisable to arm the Executive

Government, by positive law, with a power of depriving a whole Kingdom or any part of it of the protection of its laws, and of the regular administration of justice, at the discretion of ministers, it ought to be on clear and incontrovertible evidence of the truth of the facts assumed, or at the least on a formal recommendation from the Throne for the grounds of which ministers might be made answerable: whereas this Bill comes before us, not only without evidence of that supposed state of things in Ireland, which is said to make the grant of such power indispensably necessary, but is founded on a direct contradiction to documents and authorities, on which alone Parliament can regularly proceed, or safely rely. The preamble asserts that the Bill in all its provisions supposes that a rebellion still exists in Ireland, whereas we find that, on the 15th of January, 1800, the Lord Lieutenant did declare to the Parliament of Ireland, that all tendency to insurrection had been effectually repressed; and on the 10th of July following, 'That he had the happiness to acquaint them, that the country in general had in a great measure returned to its former state of tranquillity; and if, in some districts, a spirit of plunder and disaffection still existed, those disorders he believed would prove to be merely local, and would, he doubted not be soon effectually terminated.' And if in the interval between the latest of those dates and the meeting of the present Parliament on the second of last month, unexpected events had proved that a rebellion still existed in Ireland, we cannot doubt that such events would have been taken notice of in his Majesty's gracious Speech from the Throne. Opinions of individuals, however respectable, are in no case to be evidence even in Parliament, unless they are subject to examination; least of all, in legal acceptation, is a voluntary witness entitled to legal credit, to whom no questions have been or can be proposed. In the present instance, this objection is to our minds particularly weighty, considering the state of violence and contention to which Ireland has unhappily been subject for some years past; and from which it is fair to presume that the parties charged with factious principles and unprovoked rebellion, if they were in a situation to be heard, would be equally ready to complain of violated rights, of cruel treatment, and of a general system of oppression exercised over them. Furthermore, if the opinions, to which we have alluded, are in this instance to guide

the resolutions of Parliament, no reason occurs to us, why they should not equally prevail in all other cases, in which the future Government of Ireland may be concerned; but if that should be admitted, one of the principal objects of the union, strongly urged in debate by eminent persons, *videlicet*, the establishment of an impartial and dispassionate Legislature for the united Kingdoms, aloof from local prejudices, would be defeated. The dissolution of a local Legislature would have been unnecessary, and the union an unjust and useless measure, if the Government of Ireland had been conducted on principles which ought still to prevail, or if it had not been principally intended, by uniting the two countries under one Parliament, to take power out of the hands of prejudice, and not to suffer the affairs and interests of Ireland to be governed by the same parties or passions which prevailed in its own Legislature, and which were said to make the dissolution of that Legislature indispensably necessary for the good of both Kingdoms.

3rdly, Because the remedies proposed by this Bill far exceed the exigency of the case stated. The Executive Power is bound, in the first instance, to provide for the due administration of justice, in its ordinary course, and for the security of the civil magistrates; but if it were true that, in particular districts, such terrors prevailed, that juries could not be found to do their duty in the trial of offenders; and if, in such circumstances, it became unavoidably necessary to resort to other courts, and to other forms of proceeding, it does not follow that new and exorbitant powers should be given to such courts; much less that offenders, under trial or in custody of the civil magistrate, should be removed from thence and brought before a military tribunal, or that persons already tried and acquitted, should be seized and tried again for the same offences by a court-martial. We are well assured that abuses of this kind, which, in their nature, suppose a complete suspension of the administration of justice, have been practised, and do still prevail in many parts of Ireland, where the courts of law are actually open, and in the face of the judges.

4thly, Because it has been uniformly maintained in debate on the merits and advantages of the union, that it would reconcile all parties, and put an end to all divisions in Ireland; whereas

the present measure seems to us to amount to an acknowledgment that all such views were fallacious; and that the hopes held out of removing discontents in that country, are as little likely to be accomplished now as they were before the union, considering that the very first effect of that measure, and the first Act of the united Parliament, is to continue a military Government there, with all its unavoidable severities, and all its possible abuses.

5thly, Because it is neither constitutional nor safe to trust exorbitant power to the discretion of any individual, on a presumption drawn from private character and personal reputation, that it will be exercised with lenity and moderation. Such power in its nature tends to corrupt the minds of those who hold it; nor can it be applied to its own purposes, without devolving into many hands, by all which it must be exercised discretionally and without control. In this case, the hopes to be derived from experience or confidence in personal dispositions, are defeated by the actual removal of the noble person in whose prudence we might be most disposed to confide.

6thly, Because the power which has been already exercised in Ireland without a law, and which the present Bill is intended to confirm, *videlicet*, to punish all persons concerned or said to be concerned in the rebellion by death, or otherwise by the sentence of a court-martial, may be employed in the infliction of tortures and cruelties unknown to the laws of England, and from which the greatest criminals in this country are exempted. We will not consent to vest such dangerous and arbitrary powers in any hands, and least of all in courts-martial, in the constitution of which no care is taken to exclude the effects of levity or passion, and in which it is left to the discretion of seven officers, or of a majority of that number (none of whom, possibly, may be of age), to pronounce a sentence of death, or to inflict tortures worse than death.

Sackville Tufton, Earl of Thanet.

William Charles Keppel, Earl of Albemarle.

Henry Richard Fox, Lord Holland.

Peter King, Lord King.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).

CCCCLXV.

MARCH 23, 1801.

Immediately after the former protest of this day was entered, the following was inserted, said to have been composed by Sir Philip Francis. It was expunged on the 31st of March, 1801, on Lord Clare's motion 'That the reasons were contrary to the honour of the House and might be of dangerous consequence to the nation, if they were allowed to remain on the Journals.'

We deprecate, and protest against the measure because, as far as it may be carried into execution, it tends to dissolve the allegiance of the subject.

A country over which martial law is executed may be crushed or subdued; but is not governed, much less is it protected. Allegiance is not more a duty on one side than protection is on the other. The characters of subjects and of enemies cannot exist together.

A military force can exercise nothing but the dominion of the sword; with respect to the people there is no Government.

We therefore conceive it to be our bounden duty, in our endeavours to preserve the Government of the United Kingdom, not to lose sight of those advantages which alone render it worth preserving.

Sackville Tufton, Earl of Thanet.

Henry Richard Fox, Lord Holland.

William Charles Keppel, Earl of Albemarle.

Peter King, Lord King.

CCCCLXVI.

MARCH 31, 1801.

The following protest was entered on the occasion of the House adopting Lord Clare's motion for expunging the second protest of the 23rd of March¹.

1st, Because this resolution appears to us an alarming infringement of that ancient and peculiar privilege by which Peers have been enabled to record their opinions, and justify their conduct to posterity.

2ndly, Because, in the right of protesting is necessarily included

¹ One Alan Macleod, printer of the Albion and Evening Advertiser, was fined £100, and committed to Newgate, for having printed and published, on the 9th of April, the expunged protest of the 23rd of March.—Lords' Journals, April 14-17.

a right to record those reasons which have been urged in debate against any resolution taken by the House.

3rdly, Because we conceive the objections urged against the Bill in the protest (whether applicable or not in this particular instance) to be such, as any member of the Legislature is competent to feel and to express, in strict conformity with the principles on which this Government is established, and with the duty and attachment which he owes to the Constitution of this country.

The possibility of a law, which by its nature would weaken, and even dissolve the ties of allegiance is not to be controverted; and the apprehension of such a tendency in the provisions of any Bill, if entertained by the majority, would infallibly lead to the rejection of it; we are therefore at a loss to discover how an objection, which would induce a majority to reject a measure, can, when conscientiously felt by any Lord, be represented as an unfit topic of debate, or an unapt reason in a protest.

4thly, Because the application of a principle in any case admissible (however erroneous that application may appear to the majority of the House), cannot warrant a resolution for expunging the reasons of a protest. The right of individual judgment cannot be submitted to the will, or exercised according to the pleasure of the majority, against whose act it is intended to object; and the privilege of protesting is at an end, if the reasons inserted in a protest must be made agreeable to that majority, and subject to their approbation.

Charles Howard, Duke of Norfolk (Earl Marshal).
William Wentworth Fitzwilliam, Earl Fitzwilliam.
Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).
Henry Richard Fox, Lord Holland.
John Howard, Earl of Suffolk and Berkshire.
Henry Herbert, Earl of Carnarvon.
Sackville Tufton, Earl of Thanet.
Thomas Dundas, Lord Dundas.
William Charles Keppel, Earl of Albemarle.
Francis Russel, Duke of Bedford.
Peter King, Lord King.
Edward Harley, Earl of Oxford and Mortimer.
William Petty, Marquis of Lansdowne.
Charles Anderson Pelham, Lord Yarborough.
Edward Smith Stanley, Earl of Derby.

CCCCLXVII.

APRIL 17, 1801.

The Government (Addington's) in consequence of the report of the Committee of Secrecy, resolved on reviving the Act for the suspension of Habeas Corpus. The Bill was moved by Pelham in the Commons on the 14th of April, and was carried by 189 to 42, and by 190 to 34. It passed the Commons on the 20th of April, and was read a second time in the Lords on the 17th of April (41 George III, cap. 26).

It elicited the following protest.

1st, Because no sign of disaffection to the constitution of the country has hitherto appeared in the body of the people.

2ndly, Because the leading argument which has been made use of in favour of the said suspension, namely, that it was to prevent a few disaffected persons from corrupting the mass of the people, is nugatory, since the application of the same principle would be equally strong to the perversion of all wholesome restraint of power in the punishment of all other crimes as well as high treason, and would do away the very essence and groundwork of liberty under the law; a few offenders in every branch of crime never being wanting to palliate on those grounds the substitution of discretionary power for law.

3rdly, Because the constitution unmutilated, is abundantly provided in itself with adequate means for its own protection.

4thly, Because the suspension of the said Habeas Corpus Act is, in fact, levelled against the wants of the people, and not against the efforts of Jacobinism, which have long ceased to be anything but the derision of all Europe.

5thly, Because the suspension of the said Act has no pretensions to alleviate the wants or redress the grievances of the people, but merely to stifle for awhile the complaints they occasion.

6thly, Because the suspension of the said Act of Habeas Corpus has a natural tendency to infuse into the present existing discontents a turn of a political nature, to which they are at present a stranger, by cutting off from the subject the privilege of freely communicating his ideas without restraint, and thereby driving him to extremities, which under a free government he would have no occasion to resort to.

7thly, Because considering the suspension of the said Act of Habeas Corpus on the grounds on which it is endeavoured to be

justified, it does not appear to be a measure of temporary necessity called for by local and adventitious circumstances, but rather to form part of a general system of resistance to certain disputed points of morality, which must carry equal weight with them at all times, and in all ages, as long as men continue to receive from the Almighty the same intellectual faculties.

8thly, Because it appears from certain late transactions both in this House and elsewhere, that the undoubted privilege of keeping the proceedings of the Legislature secret is endeavoured to be extended to the seclusion of the body of the nation from knowing in what manner they are governed, and that the suspension of the Habeas Corpus Act will give a colour to such a jealous, timid, and self-accusing system.

9thly, Because it behoves every member of this House to ascertain by repeated Acts whether it is really intended to govern Englishmen free born, by principles which it is thought necessary to conceal from them, and that the suspension of the Habeas Corpus Act cannot fail to operate on the fears of members of this House, to deter them from carrying this and other laudable undertakings into execution.

10thly, Because when the Habeas Corpus Act was last suspended, the powers that were thereby vested were most shamefully abused, as appeared by the report of a Select Committee of the House of Commons formed to enquire into the circumstances.

11thly, and lastly, Because, if it is necessary to delegate powers so extensive as those which are admitted by the suspension of the Habeas Corpus Act, the last persons who ought to receive them are the Ministers of the Crown, who have already more power than they know how to make a proper use of.

Thomas Pitt, Lord Camelford.

CCCCLXVIII.

MARCH 29, 1802.

On the 29th of March Addington moved in the House of Commons, in answer to a message from the King inviting the Houses to take cognizance of the state of the Civil List and the debts upon it, that a sum not exceeding £990,053 be granted to discharge debts due up to the 5th of January, 1802. When the message came before the Lords, an amendment was made by Lord Fitzwilliam, that the following words be substi-

tuted for part of the address, 'that they will immediately proceed to the examination of the circumstances which have led to an accumulation of debt on his Majesty's civil list.' The amendment was rejected by 60 to 4, and the following protest entered.

Because it is inconsistent with the duties of Parliament to burthen the public purse with the unwarranted profusion of Ministers of the Crown, without examination, and without vouchers; especially as under the salutary provision of the Twenty-second of the King, it is difficult to imagine the possibility of sixteen years' accumulation of debt, without criminal contempt of the directions of the Legislature.

Because such sanction to unscrutinized accounts tends to violate the independence, and depreciate the utility of Parliament, at the same time that it exposes the Crown to the reproach of a burthensome debt, which might possibly, on examination, be justified by necessity or the public good.

Henry Herbert, Earl of Carnarvon.

Thomas Dundas, Lord Dundas.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

Henry Richard Fox, Lord Holland.

CCCCLXIX.

DECEMBER 15, 1802.

The new Parliament met on the 16th of November. Abbot was chosen Speaker again, and the King's Speech delivered in person on the 23rd of November. The delay in the Lords occasioned by the motion of Earl Spencer in voting the first bill of supply, was due to his desire to review the relations of the United Kingdom with foreign Powers, and to criticise the policy of the Government. After a warm conversation, in which the merits of the previous and the present administrations were compared, the Bill—a Malt Duty Bill—was put into committee.

The following protest was entered.

Because the constitutional argument which was urged for suspending the grant of any supply, until the accustomed communication had been made from the Crown to Parliament, rests on two propositions drawn from the law and usage of Parliament, and from the very essence of the British Constitution.

First, That no grant of supply can in any case be made to the Crown, except in consequence of a previous demand for aid.

And secondly, That such demand must not only describe the

general services for which the aid is asked, but must also specify whether those services are calculated on an expectation of peace, or of war, or of preparation for war.

These two propositions have been invariably adopted in the practice of our Constitution. No instance has yet been alleged in which they have ever been violated, except in the present case ; and their maintenance is essential to the discharge of all our most important duties. If Parliament can alone decide upon the amount of the supply to be granted, it is obvious that Parliament must be informed of the extent and nature of the services which that supply is to defray ; a question which must always essentially depend on the probability or certainty of peace or war.

For the solution of this question we are now referred to public notoriety alone.

We answer, That the constitution of our country entitles us to more authentic information : that such is the course which the law and usage of Parliament have established ; and that unless the uniform practice of our ancestors be adhered to in this respect, we can neither satisfactorily regulate our own conduct, nor judge as we ought, of the measures of Government.

But we deny that any notoriety, as to the point in question, does in fact exist. The dangers of the country are indeed sufficiently notorious. But Parliament is yet to learn by what system of conduct the King's Government proposes to avert or to encounter those dangers. The determinations of the Ministers, as far as we know them, have been uncertain and fluctuating, their councils undecided, their measures inconsistent, and their language contradictory. We are called upon to provide for an establishment, large beyond all former example : but we have not yet been distinctly told, not even in debate, much less in the constitutional way of communication from the Throne, what is the purpose for which it is intended to provide. Whether this be a peace establishment, calculated to last until the power of France be reduced, or her ambition satiated ; or whether it be a measure of temporary preparation which is to apply to some actual pressure, or to support some depending negotiation ; or lastly, whether it be intended to meet the imminent danger of immediate war, and to resist the continued growth of that Power which hourly threatens our own destruction.

In this situation, yielding to no men in duty, loyalty, and attach-

ment to the Crown, and feeling more anxious for the immediate adoption of all practicable means of defence, in proportion as our sense of the impending danger is greater, we are still desirous that some short interval and pause should take place before the final grant of any supply : though we desire that such interval should be no more than will be sufficient to enable his Majesty to shew to us the same gracious confidence which his Majesty and his royal ancestors have reposed in all preceding Parliaments, and to place us in a situation in which we may, without violating the constitution of our country, cheerfully concur in granting to his Majesty all such aids as the present exigency of affairs does, in our opinion, peculiarly demand.

Frederic Howard, Earl of **Carlisle**.

George John Spencer, Earl **Spencer**.

William Wyndham Grenville, Lord **Grenville**.

Gilbert Eliot, Lord **Minto**.

John Joshua Proby, Lord **Carysfort** (Earl of Carysfort).

CCCCLXX.

AUGUST 5, 1803.

The Property Tax (after the rupture with France on the 18th of May, and the detention of British subjects in France by an order of the 22nd of May) was resumed in August (43 George III, cap. 122). As before, the Acts exempted foreigners holding English stocks, and resident abroad, from contribution to income tax. An attempt was made to set aside this distinction, and on its being defeated, the following protest was entered.

1st, Because the exemption seems to give an unfair advantage to foreigners, who may hereafter become purchasers, thereby diminishing the revenue in the first instance, and exposing it to more injurious diminutions, by the practice of frauds which cannot easily be prevented.

2ndly, Because it seems to hold out a principle, that the Legislature may not, with equal propriety, take the same proportion of property of foreigners, hereafter voluntarily invested in this country, for the exigencies of the State, as it may of the property of its own subjects.

Charles Howard, Duke of **Norfolk** (Earl Marshal).

CCCCCLXXI.

MAY 11, 1805.

On the 8th of April, 1805, Mr. Whithead brought forward his motion, founded on the tenth report of the Commissioners of Naval Enquiry, of censure on Lord Melville (see Hansard, vol. iv, p. 255): the charge being that this nobleman had employed the balances in his hands as Treasurer of the Navy, to his own private advantage, in collusion with one Trotter, Paymaster of the Navy. Eventually Lord Melville was put on his trial. On the 11th of May the Lords ordered the resolutions come to by the House of Commons on the 8th, 25th, and 29th of April to be read, which contain an assertion of Lord Melville's offences, and received the report of their committee of privileges. It was then moved 'that the House of Commons be requested to inform this House, whether the matters respecting which the Lord Viscount Melville's attendance is requested are matters of accusation against the said Lord.' This motion was negatived by the previous question.

The allusions in the subjoined protest are as follows. On the 2nd of March, 1533, the Bishop of London informed the Lords that he had been called upon to answer to the Commons House respecting one Thomas Phillipps, whom he (the Bishop) had put into prison and detained. But the Bishop said that he would do nothing till he had consulted the Lords, who unanimously, both spiritual and temporal, said it was not becoming for any Peer to make answer to any of the aforesaid in that House. On the 7th of December, 1768, the Commons charged the Earls of Sandwich and March with subornation of evidence by public money, and required their attendance. The Lords answered that the request was contrary to usage, and wished to know the grounds of the suspicion. A conference was subsequently held, and ultimately the Lords went to the House of Commons. This business was part of Wilkes' case.

Because adhering, as I do in its full extent, to the declaration unanimously made by this House 2nd March, 1533, upon the very first occasion which we have discovered, for asserting the substance and principle of the Standing Order, No. 50, and having shewn, from the votes of the House of Commons, unquestionable grounds, as I conceive, for inferring, that the matters upon which the attendance of the noble Lord in question is desired, are considered by that House as criminatory of him; I think this House ought, on the score of privilege at least, to have required in the first place satisfaction upon that point, and could not have followed an apter precedent than that of the 7th of December, 1768, according to which the motion so set aside was framed.

* Jacob Pleydell Bouverie, Earl of Radnor.
John Baker Holroyd, Lord Sheffield.

CCCCLXXII.

JUNE 7, 1805.

On the 6th of June, Lord Melville wrote to Lord Hawkesbury, begging him to assist in obtaining permission from the Peers to attend the House of Commons to make explanations. On the 7th of June it was therefore moved that he have leave, and a series of precedents were quoted. Ultimately leave was given, and the following protest was entered.

1st, Because there is a standing order of this House, that 'No Lord shall go down to the House of Commons, to answer any accusation there;' which order was made on the occasion of a Peer having desired permission 'to go down to the House of Commons, to vindicate himself from aspersions laid on him in that House,' where Articles of Impeachment had been moved against him, but had not yet been voted; thereby marking the sense and purport of the said order, more especially when it is applied to the present case, in which it is matter of notoriety, that a motion of impeachment is to be made; and also, that with respect to parts of the case accusatory and criminating, resolutions have already been voted by the House of Commons.

2ndly, Because the existing standing order is granted on principles essential to the dignity and independence of this House, and to the maintenance of trial by our Peers.

3rdly, Because the permission given by the resolution of this day is so qualified, that either it must become embarrassing and unavailable, if duly observed, or must lead to an infraction of our privileges, if any use shall be made of it beyond the restraints prescribed.

4thly, Because the defence to be made in the House of Commons by virtue of such a permission, must have one of two consequences; either the motion of impeachment will be negatived, in which case the trial will have virtually taken place before the Commons; or it will be affirmed, in which case the grounds of defence will have been disclosed to the eventual detriment of the party, and to the injury of other Peers, who may hereafter think themselves required by this precedent to pursue a similar course of defence.

William Eden, Lord **Auckland**.

Jacob Pleydell Bouverie, Earl of **Radnor**.

George Grenville Nugent Temple, Marquis of **Buckingham**.

Gilbert Eliot, Lord **Minto**.

CCCCCLXXIII.

JUNE 17, 1805.

Justice Fox was a judge of Common Pleas in Ireland, and at the close of the Session of 1804, petitions were presented, alleging great misconduct on the part of the judge in his official capacity, from a Mr. Hart and others, and from Gerard Irvine, High Sheriff of Fermanagh, whom, as was alleged, he had fined £500 for an alleged breach of punctilio. The evidence against the Judge is contained in the Lords' Journals, vol. xlv, p. 253, on the report of Lord Walsingham. The enquiry was very prolonged, and in the course of the Session a Bill was passed through both Houses, in order to obviate any cessation of the proceedings against him, notwithstanding any prorogation or dissolution of Parliament, 45 Geo. III, cap. 117. In Ireland, Fox was found guilty on the 23rd of November, 1805, of a libel on Lord Hardwicke, the Lord Lieutenant.

The following protest was entered, on a motion being negatived to postpone proceedings for two months.

1st, Because the proceedings in question are grounded on allegations, some of which amount to a charge of crime and misdemeanor; and it is clearly contrary to the laws and statutes of this realm, that any accusation or complaint containing a charge of crime and misdemeanor, can originally be preferred in this House, or entertained by the House, except in matters of privilege; and I am not satisfied that the clause of the Act of Settlement, respecting the removal of the Judges from their offices, in consequence of the joint address of the two Houses of Parliament, meant, or can be construed to take the Judges from the protection of the general law of the land in order to place them in a situation of disadvantage and dependence, which does not affect any other individual, or any other class of men.

2ndly, Because, if our jurisdiction in this case could be established, still I should object to the matters alleged in the proposed address, which are for words said to have been spoken almost two years ago, of which no notice was taken by the parties concerned till ten months afterwards, and respecting which, evidence after such a lapse of time is now to be received. It appears to me that such a proceeding is contrary to the general analogy of law, and more especially objectionable as affecting a Judge who may be exposed to invidious consideration in the discharge of his duties.

3rdly, Because the Judge, who is the object of the proposed address, has already been subjected to great delay in this enquiry,

and to a most distressing expense, in consequence of the course of proceeding first adopted by the House, and since desisted from on better consideration.

4thly, Because the expense of such an investigation at our Bar must, both in the present and in future cases, produce the inevitable ruin of the Judges who may be brought to answer, whether they shall be guilty or innocent of the acts of misconduct alleged against them.

5thly, Because, if this proceeding were not questionable as to law, justice, and expediency, still it is objectionable at this late period of the Session, when the attendance of many Peers must be withdrawn to other public duties, and when it is impossible that the enquiry can be brought to a conclusion; and when the result can only serve to send back the Judge to the exercise of his judicial functions, laden and prejudiced by a mass of printed evidence taken against him, and respecting which he will not have had the means of making his defence.

William Eden, Lord Auckland.

CCCCCLXXIV.

JULY 10, 1806.

By 5 Geo. III, cap. 26, an arrangement was entered into between the Commissioners of the Treasury and the Duke and Duchess of Atholl, 'proprietors' of the Isle of Man, for a purchase of the Island and its dependencies under certain exceptions named therein, for the sum of £70,000. These reservations were the patronage of benefices in the Island, and certain feudal dues, under the reserved rent of two falcons annually, and £101 15s. 11d. to be paid at the receipt of the Exchequer. By 45 Geo. III, cap. 123, these further rights were commuted to an annuity equal to one-fourth of the capital sum arising from the gross revenue of the customs of Man, then payable, and secured to the Duke of Atholl, and the heirs general of the seventh Earl of Derby. The Isle of Man was granted in sovereignty by Henry IV to Sir John Stanley, and assured by Act of Parliament, 7 Jas. I, cap. 4, to the right heirs of James Lord Stanley, the seventh Earl of Derby, whose only daughter, Amelia Sophia Stanley, was married to John, second Earl of Atholl, and carried the lordship of Man into the family of Murray, after the death of James, tenth Earl of Derby, in 1736. The Bill was vigorously opposed in the Commons by Mr. Curwen (who claimed that the Houses of Parliament in England had full rights over the Isle of Man, and that failing the exercise of these rights, the house of Keys in the Isle of Man had a legislative power), and subsequently by Wilberforce. Lord Temple described the

Bill as 'a scandalous job.' It was carried in the Commons on a third reading by 42 to 12. It was opposed in the Lords by the Duke of Norfolk, the Marquis of Buckingham, the Duke of Clarence, and others, but was carried by 25 to 7.

The following protest was entered, Lord Radnor's name preceding it.

1st, Because the Bill in question appears to be grounded on the following recitals, which have not been supported by evidence :

'The preamble recites, that the Isle of Man was granted in sovereignty by King Henry the Fourth, and that these sovereign rights continued until the fifth year of his present Majesty : and it further recites, that the Act of the twelfth of George the First, Chapter Twenty-eight, provided for the purchase of these sovereign rights ; but this grant to Sir John Stanley, and the said Act, do not in point of fact convey or confirm or provide for the purchase of sovereign rights in the Isle of Man ; and it was not denied, in the course of debate, that the Legislature of England had uninterruptedly legislated for internal purposes within the said Island.

'The preamble further recites, that by a certain deed of restriction duly executed by Charlotte Duchess Dowager of Atholl, John Duke of Atholl became entitled to the rights reserved to his family in the Isle of Man, and hath ever since continued to enjoy the same ; but this deed, when produced in evidence, purports only to intend to convey "the rents, profits, and duties of every kind, payable now forth and from the Isle of Man," and does not convey any of the other rights reserved : and it appeared from evidence, that the Duchess Dowager of Atholl was Lady of the Island at the time of the passing the Act of the fifth year of his present Majesty, and has continued to exercise part of the rights reserved to her by that law ever since the Act of Restriction of 1774.

'The preamble further recites, that there were circumstances attending the resignation of these rights, which make it just and reasonable that a further compensation should be given, and that the duties of customs of the Island belonged to the family of the Duke of Atholl, and that a compensation should be given for them, to be regulated by their produce ; but of these circumstances no evidence was given ; nor was it proved to us, that the duties in question did so belong ; nor was any reason whatsoever urged in the debate to induce us to think, that the compensation (if any was to be made) should be regulated by their produce.'

2ndly, Because the reports made at various times, down to the present moment, by the law officers of the Crown, on the subject of the claim for further compensation in this matter, were sanctioned and confirmed in the debate by the first legal authorities; and did satisfy us, that we are well grounded in our opinion, that sufficient grounds have not been produced in proofs, that the compensation given by the Act of the fifth year of his present Majesty, chap. 26, was inadequate.

3rdly, Because the vague and loose manner in which the evidence has been conducted, of the nature and extent of the supposed injury, or of the proposed compensation, or of the claim of the Duke of Atholl to be considered as the party to whom that compensation should be granted, forms an additional ground for the jealousy which we entertain on the danger of establishing this precedent, for opening for re-consideration, and at a remote period, contracts between the public and individuals.

4thly, Because the House having thought proper to reject an amendment proposed in the last clause, for the purpose of supplying words evidently omitted by mistake, the Act, as it now stands, enacts a very questionable process, and imposes severe penalties on 'the officers of the receipt of his Majesty's Exchequer who shall refuse or neglect to pay the said annuity or yearly rent or sum, or any part thereof, according to the true intent and meaning of this Act, or to do any act necessary to enable the said John Duke of Atholl, and the heirs general of the seventh Earl of Derby;' but inasmuch as the words proposed to be here added, *videlicet* 'to receive the same,' were rejected, this part of the Act is absolutely unintelligible, and was admitted by every Lord who spoke in the debate to be inexplicable and of no effect.

Charles Howard, Duke of **Norfolk** (Earl Marshal).

William Henry, Duke of **Clarence**.

George Grenville Nugent Temple, Marquis of **Buckingham**.

John Joshua Proby, Lord **Carysfort** (Earl of Carysfort).

CCCCLXXV.

MAY 13, 1806.

A Bill was introduced in the Lords, permitting the importation and exportation of certain goods and commodities throughout the West Indies and South America, in neutral ships during time of war. This Bill

passed the Lords, though not without opposition. It did not proceed to the Commons, for a new Bill had passed the Commons, which ultimately became a law, 46 Geo. III, cap. 111. The object of the Act was to allow commercial intercourse between the United States and the British Colonies, which had been carried on secretly in defiance of the navigation laws. It produced the following protest.

1st, Because no proof whatever has been adduced to show, either the expediency or necessity of a measure, which facilitates and systematically establishes the suspensions of our navigation and colonial laws; and thereby sacrifices to foreigners the supply trade of the British West India settlements, to which the United Kingdom and its dependencies are rightfully entitled, in return for the monopoly they afford at their own market, to the produce of those settlements.

2ndly, Because the Bill will transfer responsibility from the West India governors to his Majesty's ministers at home; in other words, it will take responsibility from those who alone can be judges of the necessity, and will give it to his Majesty's ministers at a great distance, who cannot possibly have any information in due time to enable them to act on emergency; therefore, the power of suspending the laws must be ultimately delegated to the persons from whom the responsibility will be removed; that is, to persons who actually derive great emoluments from the frequency of the abuse.

3rdly, Because it will ultimately render our West India Settlements dependent on the American States.

4thly, Because the British Colonies in North America will be ruined, or greatly prejudiced, in consequence of the admission of foreign America shipping into the supply trade to the British West Indies.

5thly, Because Ireland in particular will be dependent on the discretion or caprice of ministers or governors, for the provision trade to the West Indies.

6thly, Because, since the relaxations and suspensions of our navigation laws, our carrying trade and commerce is transferred to foreigners; the value of British shipping greatly depreciated, and the quantity of foreign shipping employed in the British trade has increased within a late period in the proportion of twelve to one over British shipping, and thereby ship-building is so alarmingly discouraged in this Kingdom, that only two ships for the Merchants

Service have been built in the river Thames since December 1802, and only two more are now building there; and ship-building in general, in the several ports of England, has decreased nearly in the same proportion.

7thly, Because, if the United Kingdom and its dependencies cannot at all times furnish the necessary articles to the British West Indies (the contrary of which, however, may be proved), the intercourse with the American States for supplies may and can be most surely and steadily carried on as heretofore in British shipping navigated according to law, of which there is, and has been, a large number unemployed since neutral vessels have been permitted to enter the ports of the British West India Settlements.

8thly, Because, if the ships of the American States are permitted to enter the ports of the British West Indies, they will at the same time introduce, as they do at present, all East India and European goods, to the great detriment of the British East India Company, and to the manufactures and commerce of the United Kingdom and its dependencies.

9thly, Because the petitioners against the Bill, who prayed that they might be allowed to state how they shall be aggrieved thereby, have been refused to be heard, notwithstanding the strong allegations stated in their petitions, which they offered to prove by the most respectable evidence at the Bar of this House.

John Baker Holroyd, Lord Sheffield.

CCCCCLXXVI.

JUNE 11, 1806.

In the trial of Lord Melville, it was determined that two questions should be successively put to the Peers. Certain precedents were then quoted as to the conduct of the House of Lords in impeachments. It was then moved, and negatived, that Lord Melville do withdraw during the putting of the questions to the Lords to-morrow.

On this the following protest was inserted.

Because I believe that every defendant before this House, whether Peer or otherwise, whether upon impeachment, indictment, or complaint, whether for felony, misdemeanor, or breach of privilege, is by universal practice, during the question upon his conduct, however that question be put, not permitted to be present. About the grounds of this practice, which grounds I

think discoverable, and which practice will probably be reverted to, I do not interest myself.

Jacob Pleydell Bouverie, Earl of Radnor.

CCCCCLXXVII.

JUNE 12, 1806.

Lord Melville (Mr. Henry Dundas) was appointed Treasurer to the Navy in August 1782. In October of the same year his salary was raised to £4000 per annum 'in full of all wages and fees, and other profits and emoluments heretofore enjoyed by other Treasurers of the Navy.' On the 10th of April, 1783, Lord Melville resigned this situation, being then or soon afterwards indebted to the public to the amount of £23,000. By July this was reduced to £7600. In January 1784, Lord Melville was re-appointed to the office. In January 1786, a Mr. Trotter was appointed paymaster, and the debt due from Lord Melville to the public was increased to £10,600. Lord Melville resigned the office of Treasurer of the Navy on the 31st of May, 1800. He became first Lord of the Admiralty in May 1804, and quitted that office in May 1805; Mr. Whithead having brought forward his motion, founded on the tenth report of the Commissioners of Naval Enquiry on the 8th of April preceeding. The circumstances gave rise to a scandal apparently disproportionate to the actual sums on which the charge was based. The articles of impeachment brought up by the House of Commons on the 9th of July, 1805, are to be found in the Lords' Journals, vol. xlv, p. 402, consisting of a preamble and nine articles, charging Lord Melville with having fraudulently made use of the balances of the navy for his own private advantage, and of having destroyed evidence which might have been brought against him. At the same time a Bill was carried through both Houses, 45 Geo. III, cap. 126, according an indemnity to witnesses against Lord Melville.—See Stanhope's Pitt, chap. xli. There was a grave suspicion that some of the money which was unaccounted for was employed for secret service. Mr. Whithead's motion on the 8th of April, 1805, declaring that Lord Melville had been guilty of a gross violation of the law and a high breach of duty was carried by the Speaker (Abbot's) casting vote, 216—216, nearly all the Scotch members voting with Pitt and the government. Lord Melville's name was erased from the list of privy councillors on the 9th of May. (He was afterwards restored to the list on the 8th of April, 1807.)

The trial of Lord Melville began on the 29th of April, 1806, and continued for fifteen days. The first of the following four protests was entered on a motion being carried that the House adjourn to Westminster Hall.

1st, Because, as far as we can collect, from an examination of precedents, it has been the invariable practice of this House in cases of impeachment for high crimes and misdemeanors, to come

to some vote within the chamber of Parliament on the merit of the charges presented by the Commons, and we have now, for the first time, adjourned to deliver our verdicts severally in the place of trial without any such previous decision.

2ndly, Because the usages of Parliament are founded on the experience of ages; and where the practice of our ancestors has been uniform, we are ready to acknowledge that their example has with us the weight of authority, until it be contradicted by our own experience, or superseded by a sense of inconvenience which has already occurred.

That a resolution voted in the House may be at variance with the subsequent verdict delivered in the hall cannot indeed be controverted; but even were we to admit, which most assuredly we do not, such an event to be a mischievous anomaly, as termed in debate; yet the bare possibility of supposed inconsistencies and anomalies furnishes no argument for the departure from an usage in which, though practised for ages, no such inconsistency has occurred, and no such anomaly has been produced; for the consequences of such reasoning might lead us to condemn the unanimity which the law requires from a jury, to question the wisdom of keeping the different branches of the legislature distinct, and to try by the test of hypothesis institutions which the practice of former times, and the experience of our own, have shewn to be beneficial and wise.

3rdly, Because in complicated matters the propriety and even necessity of previous discussion must be obvious; and on this occasion it was distinctly acknowledged by every Lord who spoke in debate; and we know of no parliamentary mode of discussing a subject, and of insuring attention to that discussion, but by a question to be decided by the majority of the House.

4thly, Because our apprehensions of inconvenience and delay arising from an unusual order of proceeding, have in our judgments been amply justified by the event; and though, in compliance with the wish of many Lords, we are unwilling to disturb a mode which had been recommended, but which it was in the power of any individual Lord to defeat, we hope it is not disrespectful to the House, and we trust it may not be altogether unuseful to posterity, to record this our humble but fixed opinion, that the deviation from the practice of our ancestors

has tended to place in a stronger light the convenience and necessity of the method which they uniformly pursued.

William Eden, Lord **Auckland**.
 Henry Richard Fox Vassall, Lord **Holland**.
 Thomas Dundas, Lord **Dundas**.
 James Maitland, Earl of **Lauderdale**.
 John Howard, Earl of **Suffolk and Berkshire**.
 Edward Harley, Earl of **Oxford and Mortimer**.
 James St. Clair Erskine, Earl of **Rosslyn**.
 John Joshua Proby, Lord **Carysfort** (Earl of Carysfort).
 St. Andrew St. John, Lord **St. John of Bletsce**.

CCCCCLXXVIII—CCCCLXXX.

JUNE 12, 1806.

The articles of impeachment against Lord Melville (ultimately increased to ten) were separately voted on by the Lords present (135 in number). On one of these (the 4th), he was unanimously acquitted, the largest number of adverse votes being given on the 2nd (54), the 3rd (52), the 7th (50), and the 6th (47). These articles refer to the transactions of Lord Melville with Trotter, and declare that the Treasurer carelessly or guiltily connived at Trotter's misappropriations.

The following protest is lodged against Lord Melville's acquittal on the second head.

1st, Because, subsequent to the appointment of Viscount Melville for the second time to the office of Treasurer, an Act of Parliament was passed, intituled, 'An Act for better regulating the office of Treasurer of his Majesty's Navy,' whereby it is among other things enacted, That from and after the 1st of July, 1785, no money for the service of the navy shall be issued from his Majesty's Exchequer to the Treasurer of the Navy, or shall be placed, or directed to be placed in his hands or possession, but the same shall be issued and directed to be paid to the Governor and Company of the Bank of England, and to be placed to certain accounts, according to the services for which it is craved and issued; and the monies to be issued unto the Governor and Company of the Bank of England, on account of the Treasurer of his Majesty's Navy, shall not be paid out of the Bank, unless for navy services, and in pursuance of drafts to be drawn on the Governor and Company of the Bank of England, and signed by the Treasurer of his Majesty's Navy for the time being, or the person or persons authorized by him; and that upon the death, resignation, or removal of the pre-

sent and every other Treasurer of his Majesty's Navy hereafter to be appointed, the balance of cash for which he shall at that time have credit on his account or accounts as Treasurer of his Majesty's Navy with the Governor and Company of the Bank of England, shall at the end of the current month, after a successor shall be appointed to the said office, actually vest in such successor in trust for the service of the navy, and be forthwith transferred, carried over, and placed to the account of such successor.

2ndly, Because it has been shewn in evidence by the Commons, that, in direct breach and violation of the said Statute, the said Henry Viscount Melville did give permission to Alexander Trotter, his paymaster, to draw from the Bank of England, for other purposes than for application to navy services, sums of money issued to the Governor and Company of the Bank of England on account of the Treasurer of the Navy, and to place the same in the hands of his private banker; that the said Alexander Trotter, in consequence of such permission, did draw from the Bank of England large sums of public money, and place the same in the hands of his private bankers, in his own name, and at his own disposal, and beyond the control of the Treasurer of the Navy; and because it has been proved, that the said Alexander Trotter derived private profit and emolument from the public monies thereby taken from the Bank to a great amount; and that the said Viscount Melville did believe and understand, that the said Alexander Trotter did derive advantage and emolument therefrom, and did not prohibit him from so doing; by all which conduct the said Statute was grossly violated, and the enactment relative to the transfer of the balance of public money, on the death, resignation, or removal of the existing Treasurer of the Navy, to his successor, in case of the death of the said Alexander Trotter, during the period of his having outstanding balances of public money in the hands of Messrs. Thomas Coutts and Company, rendered altogether impracticable.

3rdly, Because the reasons assigned by Viscount Melville, for granting permission to the said Alexander Trotter to place the public money in his private banker, are frivolous and unfounded; and therefore we have good cause to believe, that they were not the real motives for such breach and violation of the law.

John Christopher Burton Dawnay, Lord Dawnay (Viscount Downe).

Henry Richard Fox Vassall, Lord Holland.
Francis Basset, Lord De Dunstanville.
James Maitland, Earl of Lauderdale.
Augustus Frederic, Duke of Sussex.
John Howard, Earl of Suffolk and Berkshire.
James St. Clair Erskine, Earl of Rosslyn.
Edward Harley, Earl of Oxford and Mortimer.
Thomas Dundas, Lord Dundas.
St. Andrew St. John, Lord St. John of Bletscoe.
John Bligh, Lord Clifton (Earl of Darnley).

The following protest is lodged against the acquittal on the sixth and seventh charges.

1st, Because it is our serious persuasion as men, and our deliberate opinions as judges, that not only a sense of public duty and of honour, but the strict and positive injunctions of law, prohibit Lord Viscount Melville from deriving any profit or advantage, and from permitting or conniving at others deriving such profit or advantage, directly or indirectly, from public money during his second treasurership, and especially from and after the 1st day of July, 1785; for it appears,

That on the 19th June, 1792, the House of Commons resolved, 'That it is the opinion of this House, that from henceforward, the Paymaster-General of his Majesty's Forces, and the Treasurer of the Navy for the time being, shall not apply any sum or sums of money imprested to them for any purpose of advantage or interest to themselves, either directly or indirectly.

'That the Warrant appointing Lord Viscount Melville to the office of Treasurer of the Navy in August, 1782, granted to him an additional salary of £2,324 6s. 6d. in full satisfaction of all wages and fees, and other profits and emoluments heretofore enjoyed by former Treasurers of his Majesty's Navy; and that Lord Viscount Melville himself declared before the Commissioners of Naval Enquiry, that he considered the said additional salary to be in full satisfaction of all other profits and emoluments.

'That subsequent to the appointment of Lord Viscount Melville for the second time to the office of Treasurer, an Act of Parliament was passed, intituled, "An Act for better regulating the office of Treasurer of his Majesty's Navy":

'Whereby it is among other things enacted, that from and after the 1st day of July, 1785, no money for the service of the navy

shall be issued from his Majesty's Exchequer to the Treasurer of the Navy, or shall be placed or directed to be placed in his hands or possession, but the same shall be issued and directed to be paid to the Governor and Company of the Bank of England, and to be placed to certain accounts, according to the services for which it is craved and issued.

‘ And that the monies to be issued unto the Governor and Company of the Bank of England, on account of the Treasurer of his Majesty's Navy, shall not be paid out of the Bank unless for navy services, and in pursuance of drafts to be drawn on the Governor and Company of the Bank of England, and signed by the Treasurer of his Majesty's Navy for the time being, or the person or persons authorized by him :

‘ And that upon the death, resignation, or removal of the present and every other Treasurer of his Majesty's Navy hereafter to be appointed, the balance of cash for which he shall at that time have credit on his account or accounts, as Treasurers of his Majesty's Navy, with the Governor and Company of the Bank of England, shall, at the end of the current month after a successor shall be appointed to the said office, actually vest in such successor, in trust, for the service of the Navy, and be forthwith transferred, carried over, and placed to the account or accounts of such successor.’

2ndly, Because it has been shewn in evidence by the Commons, that, in disregard of the rule and order of office, in breach of the obligation created by the said resolution and warrant, and in violation of the spirit and letter of the said Act of Parliament, Alexander Trotter, Paymaster of the Navy, by desire of Lord Viscount Melville, opened an account, called the Chest Account, in which he debited Lord Melville with £10,600, being the sum of money for which Lord Viscount Melville, by his own confession, was at that time accountable to the public; that various advances were made at subsequent periods on the same account, in consequence of requisitions from Lord Viscount Melville to the said Alexander Trotter, in the nature of commands, with which requisitions the said Alexander Trotter universally complied, without any remonstrance; that no interest was ever paid by or charged to Lord Viscount Melville for these said advances; that the said Alexander Trotter always considered Lord Viscount Melville to be immediately indebted to the public in the sums for which he was

debited in the said Chest Account, and that Lord Viscount Melville understood and knew himself to be so indebted: that the said Alexander Trotter having advanced to Lord Viscount Melville in 1797 the sum of £10,000, in order to pay the instalments on his the said Lord Viscount Melville's subscription to a public loan, known by the name of the Loyalty Loan, and having in the first instance debited the said Lord Viscount Melville for that sum, in another account kept between the said Lord Viscount Melville and the said Alexander Trotter, intituled their Account Current, did afterwards, for his own greater security, transfer the same to the Chest Account, and did present a copy of the said account, bearing on the face of it a statement of the said transaction, to Lord Viscount Melville, by whom it was regularly, duly, and formally settled and signed, and to whom the original book, or a duplicate thereof, so settled and signed, was delivered; and the said Alexander Trotter did, at subsequent periods, present other statements and duplicates of the said account, containing the same charge, which the said Lord Viscount Melville did in like manner receive, settle, and sign: and furthermore it has been proved, that notwithstanding Lord Viscount Melville must have known from this transaction that the money so advanced to him by the said Alexander Trotter, by which he was enabled to hold the said Loyalty Loan, was public money, he permitted the dividends accruing on the stock to be carried to his credit on his Account Current with the said Alexander Trotter till May, 1800, when, by a paper, signed with his own hand, he authorized Mark Sprott to dispose of the same, which was accordingly done, and the produce carried to the credit of Lord Viscount Melville, in his account with Messrs. Thomas Coutts and Company, his bankers.

3rdly, Because it has been shewn in evidence, that there was an account between Lord Viscount Melville and Alexander Trotter, called their Account Current, which was opened within less than three months after the appointment of the said Alexander Trotter to the office of Paymaster of the Navy, in the month of January, 1786, and was not finally closed till the month of May, 1800, when Lord Viscount Melville left the Navy Pay Office; that during that interval it had been frequently balanced and signed by both parties, and duplicates exchanged; that no interest was ever charged on either side in the said Account Current, of which the balance was

generally against Lord Viscount Melville, to the amount of from £10,000 to £20,000, and when in favour of Lord Viscount Melville, it never exceeded from £2,000 to £3,000; that large sums of money were advanced by the said Alexander Trotter to the said Lord Viscount Melville, and placed to his account, which sums were derived from the public money, illegally drawn by the said Alexander Trotter from the bank, on the pretence of navy services, and placed by permission of Lord Viscount Melville in the house of Mr. Trotter's private banker.

4thly, Because it has been shewn in evidence, that when the said Alexander Trotter was made Paymaster of the Navy in 1786, he was unable to make any advances of money to Lord Viscount Melville from his private fortune, which did not at that time exceed the sum of £1,000 or £2,000, and that nevertheless, within three months after his nomination to the said office, he did advance £4,000 to Lord Viscount Melville, without interest, the pecuniary circumstances of the said Alexander Trotter being perfectly well known to the said Lord Viscount Melville:

And because it has been proved, that the attention of the said Lord Viscount Melville to the transactions of the said Alexander Trotter with the public money must have been forcibly excited, by a conversation which took place with the said Alexander Trotter in 1789, wherein the said Alexander Trotter proposed to the said Lord Viscount Melville to lay out the public money for the purchase of India Stock, for his Lord Viscount Melville's own private interest and advantage; and although such proposal so made was rejected, he does not appear then, or at any subsequent period, to have made any enquiry into the amount of the public money in the hands of the said Alexander Trotter, nor into his manner of employing the same, but continued to accept loans of money, without interest, from the said Alexander Trotter, and without ever enquiring from what source such money was derived.

5thly, Because it has been proved by the Commons, that the first item of the said Account Current consists of a sum of £4,000 advanced by the said Alexander Trotter to the said Lord Viscount Melville, out of the fund entrusted to the said Alexander Trotter, for the payment of exchequer fees, for which sum of £4,000 it has been proved that a bond was given, in which no engagement to pay interest was expressed: that on the 4th of September, 1792, the

sum of £8,000 was drawn by the said Alexander Trotter from the Bank on the pretence of navy services, out of which sum £4,057 so was employed the same day in the purchase of £2,000 East India Stock, for the use and benefit of the said Lord Viscount Melville, according to his express desire and request ; that no interest was charged to Lord Viscount Melville for the purchase money of the said East India Stock, although, as has been proved, the dividends were carried to his credit, and the Stock itself ultimately disposed of for his benefit in May, 1800.

6thly, Because it has been proved, that in the month of May, 1800, when Lord Viscount Melville quitted the Navy Pay Office, he was under the necessity of raising the sum of £50,000 or thereabouts, by the sale of divers parcel of Stock which had been purchased with the public money, and by the pledging of the salaries of public offices held by him, and persons nearly connected with him, in order to make good that part of his deficiency in his Act of Parliament Account at the Bank, which was in his own hands, and had been used exclusively for his own profit and advantage.

7thly, Because, in defiance of the rule and order of office, of the obligation created by the said Resolution and Warrant, and of the positive provisions of the said Act of Parliament, it has been distinctly proved ; nor was it in the course of the defence, or of the debates in this House, ever denied, that the total amount of money advanced by the said Alexander Trotter to the said Lord Viscount Melville, and employed by the said Lord Viscount Melville without interest on the Chest Account, and the Account Current, taken together amounted, on the 31st of December, 1791, to £19,988 ; on the 31st of December, 1792, to £26,476 ; on the 31st of December, 1793, to £27,025 ; on the 31st of December, 1794, to £28,758 ; on the 31st of December, 1795, to £30,316 ; on the 31st of December, 1796, to £75,413 ; on the 31st of December, 1797, to £58,640 ; on the 31st of December, 1798, to £54,140 ; on the 31st of December, 1799, to £54,140.

James St. Clair Erskine, Earl of Rosslyn.

Henry Richard Fox Vassall, Lord Holland.

Augustus Frederic, Duke of Sussex.

John Bligh, Lord Clifton (Earl of Darnley).

John Howard, Earl of Suffolk and Berkshire.

Edward Harley, Earl of Oxford and Mortimer.

Thomas Dundas, Lord Dundas.
St. Andrew St. John, Lord St. John of Bletsoe.
Francis Basset, Lord De Dunstanville.

The following protest is lodged against the acquittal on the first and tenth articles.

1st, Because it appears, and has been adduced in evidence by the Commons,

1. That on the 19th of June, 1782, the House of Commons resolved, 'That it is the opinion of this House, that from henceforward the Paymaster-General of his Majesty's Forces, and the Treasurer of the Navy for the time being, shall not apply any sum or sums of money imprested to them for any purpose of advantage or interest to themselves, either directly or indirectly.'

2. That the Warrant appointing Lord Viscount Melville to the office of Treasurer of the Navy in August, 1782, granted to him an additional salary of £2,324 6s. 6d. in full satisfaction of all wages and fees, and other profits and emoluments heretofore enjoyed by former Treasurers of our Navy; and that Lord Viscount Melville himself declared before the Naval Commissioners, that he considered the said additional salary to be in full satisfaction of all other profits and emoluments.

2ndly, Because, in defiance of the rule and order of office, and of the obligations created by the said Resolution and Warrant, it has been proved that the said Lord Viscount Melville did, on the 11th of June, 1805, in the House of Commons, declare, that during the Paymastership of Mr. Douglas he became possessed of public money to the amount of £10,000, which said sum it appears to us that he must have converted to some illegal purpose, or to purposes other than those of the navy services of the Kingdom.

3rdly, Because, in disregard of the rule and order of office, and in breach of the obligation created by the said Resolution and Warrant to renounce all use of the public money, the Commons have shewn, that soon after Lord Viscount Melville's acceptance of the office of Treasurer of the Navy, viz. in August, 1782, there was a considerable difference between the balance charged to the Treasurer and the balance at the Bank; and although it does not appear in evidence that the whole of this difference was occasioned by misapplication of the public money, yet the Commons have proved to our satisfaction, that certain payments were made to the private use of

the Treasurer of the Navy, soon after his acceptance of the said office.

They have at this period satisfactorily traced one bank note of £1,000 from the Exchequer, where it was issued on the 6th of November, 1782, for navy services, to the House of Messrs. Moffat and Kensington, to whom it was paid by Mr. Douglas on the 22nd of November, 1782, in discharge of a bill to that amount, drawn by Mr. Newbigging on the Right Honourable Henry Dundas, under the designation of Lord-Advocate of Scotland: they have also traced another bank note of £1,000 from the Exchequer, where it was issued on the 22nd of November, 1784, for public navy services, to the House of Messrs. Drummonds, one of the private bankers of Lord Viscount Melville, to whom it was paid by Lord Viscount Melville himself, as appears by an entry made and proved in the books of the said Messrs. Drummonds.

4thly, Because the Commons have proved, that although, according to the obligations under which Lord Viscount Melville held the office of Treasurer of the Navy, there ought to have been no difference between the balance charged to the Treasurer and the balance at the Bank; yet in May, 1783, there was a difference amounting to the sum of £23,000, which difference, before the end of July, 1783, was reduced to £7,600, in consequence of various payments made into the Bank on account of the Treasurer of the Navy, by Messrs. Muir and Atkinson, and other private hands, from which we infer that the money so repaid had been used for some private purpose, and to private profit or advantage.

5thly, Because it has been also shewn in evidence, that before the end of March, 1785, during the second treasurership of Lord Viscount Melville, certain drafts were drawn under the authority of the Treasurer, the produce of which drafts was not applied to any public purpose, but to the discharge of a part of the debt due to his old account, by creating a debt to a corresponding amount on his new account, by which the former difference of £7,600 in the old account was reduced to £1,600, at which it continued to the period of the death of Mr. Douglas in December, 1785.

6thly, Because it has been proved, that these fraudulent drafts having occasioned a difference of £6,000 between the balance charged to the Treasurer and the Bank balance in the new account, this difference was increased to £10,000 by two sums of £2,000

each, drawn from the Bank by Mr. Andrew Douglas to the name of Mr. George Swaffield, the one in August, 1784, and the other in May, 1785, both of which, we are led to believe, were for the use of the Treasurer of the Navy, from the circumstances that no part of this sum was received by Mr. George Swaffield, or in any way entered in the official books at the Navy Pay Office, and that Mr. Douglas paid £2,000 into the account of Lord Melville at Mr. Drummonds, on the day on which the last-mentioned £2,000 was drawn from the Bank.

Further it has been proved, that the debt on the new account was in October, 1785 reduced from the above-mentioned sum of £10,000 to £9,000, by the payment of £1,000 into the Bank through the hands of Mr. Davies, belonging to the Navy Pay Office, being the amount of one quarter's salary due to the Right Honourable Henry Dundas as Treasurer of the Navy, at which sum of £9,000 the difference in the new account continued unchanged at the death of Mr. Douglas in December, 1785.

7thly, Because all these facts are confirmed by the proof the Commons have adduced, that after the death of Mr. Andrew Douglas, viz. in January, 1786, Lord Melville confessed to Mr. Alexander Trotter (whom he had appointed Paymaster of the Navy after the decease of the said Andrew Douglas) that he, Lord Viscount Melville, was debtor to the public in the sum of £10,600, which sum of £10,600 exactly corresponds with the deficiency of £1,600 on the old account, and £9,000 on the new account, which has been proved to have been the residuary balance of divers payments made by the authority of Lord Viscount Melville, for purposes extra official and unexplained to a much larger amount; and all the repayments upon which the Commons have proved to have been made from private sources.

James Maitland, Earl of Lauderdale.

St. Andrew St. John, Lord St. John of Bletsoe.

For the first, second, fifth, and seventh reasons.

John Christopher Burton Dawnay, Lord **Dawnay** (Viscount Downe).

Henry Richard Fox Vassall, Lord **Holland**.

Augustus Frederic, Duke of **Sussex**.

Edward Harley, Earl of **Oxford and Mortimer**.

CCCCCLXXXI.

JUNE 19, 1806.

On the 3rd of June, Justice Fox presented a petition complaining of the delay and expense to which he had been put in consequence of the prolonged character of the proceedings against him, and begging a speedy issue, *Lords' Journals*, vol. xlv, p. 662. The trial of Lord Melville prevented immediate attention being given to this prayer, but on the 19th of June, Lord Grenville moved that it be taken into consideration, and after it was read, Lord Grenville argued that there was no time to discuss the question at so late a period of the Session, and that the House had no real power in the case. His motion to postpone the matter for two months was strongly opposed by Lord Abercorn and Lord Eldon, and was supported by the Lord Chancellor (Erskine) on the plea that it should have been dealt with by the Commons. The debate was a long one, but the House ultimately accepted Lord Grenville's motion by 25 to 16. No further notice was taken of the case in either House.

The following protest was entered.

1st, Because, although according to the terms of the resolution it hath been proposed only to postpone the proceedings in this matter for two months, it hath been avowed by the noble Lord who moved it, that the resolution hath for its object to put an end to all further investigation into the grounds of the motion made in this House to address his Majesty to remove the Judge, touching whose alleged conduct the proceedings have been had in this House.

2ndly, Because it having been questioned in the course of debate, whether this House can legally and constitutionally entertain a motion for an address to remove a Judge, on account of alleged misconduct in the execution of his office before some proceedings have been had respecting the same elsewhere, we feel it incumbent on us to record our opinion, that it is the clear right of this House, according to the provisions of the Act of Settlement of the 12th and 13th of King William the Third, to entertain in the first instance a motion for an address to his Majesty for the removal of a Judge, provided the facts alleged as the grounds of the address shall be sufficient to justify the proceeding, and shall have been proved to the conviction of the House.

3rdly, Because, though it is unquestionably of great public importance that the Judges should fully possess the independence intended to be secured to them in their high station, it appears to

us not to be necessary for the support of that independence ; and on the other hand, that it would be of the most mischievous consequence, to concur in a resolution which upon the grounds stated for adopting it, has a tendency to prove that the conduct of the Judges in the execution of their office, cannot effectually in the first instance be brought under the consideration of the House of Lords.

4thly, Because we think it not only dangerous to the administration of justice, but injurious to the person whose conduct has been the subject of consideration to stay the proceedings in a period thereof, where evidence hath been actually received in his presence and hearing, and now remains upon the Journals of the House, which unanswered seems to us undisputably to prove misconduct of a very serious nature towards a jury duly discharging their duties and functions according to law.

5thly, Because it hath been further alleged, and because proof has been offered to be given in support of such allegations, that the said Judge in the exercise of his office did conduct himself upon the Circuit towards a jury at Lifford in a most oppressive manner ; that on several occasions in the course of the same Circuit, he did impose arbitrary, excessive, and illegal fines ; that he did most unwarrantably calumniate the characters of magistrates and other persons ; and in a charge to the Grand Jury at Longford did endeavour to bring his Majesty's government into hatred and contempt ; and it therefore appears to us to be of the most evil example to refuse to examine the grounds of the above allegations, and to stay the proceedings in that stage of the business in which this resolution has been adopted.

John Scott, Lord **Eldon**.

John James Hamilton, Marquis of **Abercorn**.

Philip Yorke, Earl of **Hardwicke**.

John Craggs Eliot, Lord **Eliot**.

Robert Banks Jenkinson, Lord **Hawkesbury**.

Thomas Pakenham, Earl of **Longford**.

CCCCCLXXXII.

JULY 21, 1806.

The Militia Officers' Pay Bill (46 Geo. III, cap. 140) was read a third time and passed on the 21st of July, provided that nothing contained in

the Acts 42 Geo. III, caps. 90, 91, and 33 Geo. III, caps. 22-54, shall be construed into an increase of pay to the militia, yeomanry, or volunteers. The Bill was opposed by Lords Radnor, Westmorland, Eldon, Hardwicke, Camden, and the Duke of Rutland. It was carried however by 13 to 8.

The following protest was entered.

Because, exclusive of objections apparent upon the face of this Bill, which professes by the title to confine itself to the Militia of England and Scotland, but which in fact and without notice, legislates also for the Yeomanry and Volunteer corps of England, Scotland, and Ireland, its provisions are in my opinion a direct breach of the public faith, and a continuance of that systematical violation of Parliamentary engagements to the Militia, of which I have frequently complained.

The stipulation in behalf of this establishment first in importance was, that neither the whole or any part of it should on any account be carried, or ordered to go out of Great Britain: the second was, that no man enrolled in it should be released before the expiration of his engagement so as to enter into the army: the third was, that the officers to be appointed should be men of landed property; the fourth was, that when appointed they should rank with the officers of his Majesty's regular forces, as youngest of their rank; the fifth was, that the officers and men when embodied, should be entitled to the same pay as the officers and men of his Majesty's other infantry forces, and no other; I state these as points eminently deserving notice, either with reference to constitutional principles, or as honorary to the establishment.

The Militia is still complimented in Parliament; I suppose, therefore, it has satisfactorily performed its part of the contract.

The Legislature has stood to its engagements, has realized its promises in the following manner:—

The first stipulation was suspended by a Bill brought in, and enacted in forty-eight hours.

The second stipulation has been infringed repeatedly.

The third has been in a great measure repealed.

The fourth alone is not yet attacked; I venture to think it will be; grounds have been laid for such attack in a future Session by a Bill relative to another service, which has received the royal assent this day.

The fifth stipulation this Bill is to annihilate; against this Bill,

therefore, I enter my solemn protest, leaving in a bare statement of notorious facts, the reasons of my dissent, equally grounded to my understanding in political expediency, and in the less disputable considerations of moral honesty, justice, and good faith.

Jacob Pleydell Bouverie, Earl of Radnor.

CCCCLXXXIII—CCCCLXXXV.

JULY 15, 1807.

An order in Council had been made on the 27th of May, 1807, continuing in force an Act (46 Geo. III, cap. 16) which expired on the 1st of June. An act of indemnity was therefore obtained for those who had, under the sanction of this order, violated the law in trading with the United States. On the 14th of July, Lord Holland moved an amendment to the preamble of the Act, which condemned the sudden dissolution of Parliament, and thereby rendered such irregular proceedings as orders in Council necessary. The dissolution took place on the 29th of April, and the new Parliament met on the 22nd of June.

The following protests were entered.

1st, Because it ought to be shown, on behalf of those whom it is proposed to indemnify for a violation of the law, not only that their Act was necessary to preserve the public from injury, but that this necessity was not induced by their fault: in the case on which the House has decided, the necessity was created by his Majesty's Ministers themselves, who advised the dissolution of the last Parliament, when the consequence must evidently be, that the trade and interest of the public would suffer material injury, or that the power of the Crown must be exerted against law, and in manifest derogation of the common liberty.

2ndly, Because if, on the one hand, the principle of the Constitution requires that the power of dissolution should reside in the Crown, it is not less true on the other, that the power of Parliament over the public purse, and the right of the two Houses exclusively to advise his Majesty in the making, repealing, suspending, and altering of laws, is the proper constitutional check upon this prerogative. But if it be admitted, that a dissolution of Parliament is in itself sufficient to justify the continuing, beyond the term fixed by Parliament, and by the sole authority of the Crown, the operation of any legislative provision, and particularly of an Act of Supply; the power of the purse, and the legislative functions of both Houses,

would be virtually transferred to the Crown ; and all the securities which the Constitution has provided for the due administration of his Majesty's affairs, and for the property and liberty of the whole nation, would be utterly invalidated and destroyed.

3rdly, Because, at the time of the late dissolution, all the measures recommended by government having been adopted, all the supplies granted, and no difference existing between the two Houses, or between his Majesty and his Parliament ; it is evident that there was no urgent, political, and public necessity, which could warrant the exposing government to an alternative so serious and important, as that which is the subject of the present proceeding.

John Joshua Proby, Lord Carysfort (Earl of Carysfort).

For the two first reasons ; and moreover, because the pretences alleged for the dissolution of Parliament, *videlicet* the dismissal of the late Administration, the discussions which arose upon it, and the causes which led to it, were not in my judgment sufficient to justify those who advised so unusual an exercise of prerogative, together with a consequent breach of the law, and an acknowledged invasion of the rights of the subject.

The notion, that either on the bare removal of a ministry, or in consequence of motions purporting to criminate the advisers of the Crown, Parliament may and ought to be dissolved, has a direct tendency to subvert the freedom of debate, to break the independent spirit of the Commons' House of Parliament, and to render that branch of the Legislature the subservient organ of the minister of the day.

Nor can any just plea for an extraordinary exercise of prerogative, and manifest violation of law, be founded on the measures projected by the late administration in favour of Roman Catholics and other dissenters, measures always reconcilable to the true principles of wisdom and justice, and now not only imperiously called for by the exigencies of the times, but absolutely necessary to the safety of the United Empire.

Henry Richard Fox Vassall, Lord Holland.
James St. Clair Erskine, Earl of Rosslyn.

1st, Because the amendment to the preamble moved upon the report was rejected by the House.

2ndly, Because, though a Bill of Indemnity unquestionably implies that the law has been violated, and though it was admitted in debate that nothing but necessity can possibly justify the violation of law, yet the frequency and facility with which Bills of Indemnity have of late years been granted, the sacred nature of the law, which has in this instance been transgressed; and the circumstances which gave rise to the necessity, seemed to me to call for some more solemn declaration of the constitutional principles which by such transgressions of the law are manifestly violated, than a simple recital of the necessity of the violation and an immediate and unqualified indemnity for it, without reference to the events which produced that necessity, or to the peculiar nature of the illegal measure itself.

3rdly, Because the principles which have in this instance been violated, are so sacred and fundamental in our Constitution, that at all seasons, and upon all occasions, even if the ground of necessity were incontrovertibly proved, it would become the dignity of the House of Lords, and would be consistent with that jealous and independent spirit which, where the privileges of the subject are concerned, should always characterise a British Parliament, scrupulously and anxiously to record in the instrument of indulgence itself their sense of those invaluable rights, the infringement of which nothing but an overruling necessity had or could have induced them to overlook.

The right by which the subject is exempted from all taxes not granted by common consent of Parliament, has at all times been deemed by sound constitutional lawyers, and has frequently been recognized by Parliament itself, to be coeval with the frame and constitution of the Kingdom; and has repeatedly and solemnly been declared and secured by Charters of our Princes, and Acts of our Legislature.

By the Great Charter of our Liberties, in the reign of King John, no aid or scutage can be levied on the Kingdom without the consent of the common council of the nation; by the *Statutum de tallagio non concedendo*, in the reign of Edward the First, no tallage or aid can be levied by the King without consent of the archbishops, bishops, earls, barons, knights, burgesses, and freemen of the commonalty of this realm; and as in the frequent remonstrances of the Parliaments of Edward the Third, the jealous

attachment of our ancestors to this fundamental maxim of our Constitution is recorded, so in the impeachment, condemnation, and punishment of the Lord Latimer, which took place at the close of that reign, their determination to enforce it is strongly exemplified ; and at subsequent and later periods of our history, the endeavours of our forefathers were uniformly, but more particularly in the Petition of Rights in 1627, and in the Acts of Charles the Second, recited in the rejected preamble, directed to the solemn recognition and perpetual security of this inestimable privilege ; and finally, in that solemn Act of the Legislature, commonly called the Bill of Rights, the levying money without consent of Parliament, and the dispensing with laws, both which practices have in this instance occurred, are declared and enacted to be illegal.

It seemed, therefore, to me no light or trivial matter, no ordinary or indifferent proceeding, to indemnify persons for the violation of such fundamental maxims of the Constitution, and prudence required a solemn and studious declaration of the great delicacy and importance of the transaction, a precaution which the frequency of such Bills, and the repeated though perhaps unpremeditated exertions of such illegal authority of late years have, in my judgment, rendered indispensably necessary.

Henry Richard Fox Vassall, Lord Holland.

CCCCLXXXVI.

JULY 31, 1807.

The Act of Parliament, 47 Geo. III, Session 2, cap. 13, entitled an Act to suppress insurrections, and prevent the disturbance of the public peace in Ireland, was introduced into the Commons by Sir Arthur Wellesley on the 9th of July. The object of the Bill was to suppress the practice of administering unlawful oaths, or taking them, by inflicting very severe penalties, by proclaiming districts, &c. It was originally intended to give these powers for seven years, but the time was cut down in Committee to two. It was strongly opposed by Grattan and others, but was carried by strong majorities, the Chancellor of the Exchequer (Perceval) observing, that if 'the Bill was not popular in Ireland, it was a proof of its necessity.' It was opposed in the Lords by Lord Holland, Earl Fitzwilliam, and the Duke of Bedford ; Lord Foley, Lord Yarborough, and the two Lords Ponsonby, who entered their dissent.

The following protest was entered.

1st, Because the reasons which have been urged in debate do not

appear to be sufficiently strong to compel me to agree to passing this Bill, which can be justified only on the plea of necessity, and which, being contrary to the principles of a free Constitution, ought (if unfortunately necessary) to be in force for the shortest time possible; and yet in the present case it has been pertinaciously refused to limit its duration to one year; and on the contrary it has been declared in debate, that it would have been better if it had been made to continue for a still longer period of years.

2ndly, Because, if it be true that this Bill is imperiously called for by the distracted state of Ireland, it should not have been delayed till so late a period of the Session, when the attendance is necessarily so thin, and it could not receive the discussion it ought, but should have been brought forward sooner, together with other measures of a conciliatory kind, to meliorate the unfortunate state of that country, if it be really such as is represented.

3rdly, Because, it appears to me, that the best way to conciliate the people of Ireland to a union with this country is, by convincing them, that in all our acts towards them, we are as tender of their liberties as we are of our own, and that we will on no account suffer that to be done to them which we will not as readily and on the same grounds submit to ourselves.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).
John Ponsonby, Lord Ponsonby of Imokilly.

CCCCLXXXVII.

AUGUST 4, 1807.

On the 10th of July the Commons sent a Bill to the Lords entitled An Act to prohibit the granting of offices in reversion, or for joint lives, with benefit of survivorship. The Bill was founded on a resolution carried in the defunct House of Commons on the 24th of March, and carried through by Mr. Bankes. It was opposed by Lord Arden as an indecent attack on the King's prerogative, but was supported by Earls Grosvenor, Lauderdale, and others. The second reading was rejected by 15 to 9, on a motion that it should be read that day three months.

The following protest was entered.

1st, Because we are of opinion that a Bill of such magnitude and importance, sent up by the Commons' House of Parliament, as a measure of precaution against the wanton and injudicious expenditure of the money of their constituents, demanded the

deliberate consideration of a full House ; it is therefore with the deepest regret we have seen it hastily rejected, at the instigation of noble Lords deeply interested in reversionary grants, and in the absence of those whose official situations rendered their attendance in this House more peculiarly a public duty.

2ndly, Because, with the knowledge that this Bill not only commanded the general approbation of the Commons' House of Parliament, but that it appears from the votes of that House to have been the only measure introduced by the committee of finance, of whose exertions his Majesty, in his Speech at the conclusion of the last, as well as at the commencement of this Parliament, so strongly expressed his approbation ; we cannot, without the deepest feeling of alarm, reflect on the serious discontent which the public must feel at this unprecedented manner of rejecting a measure so deservedly popular, sanctioned by the direct approbation of one branch of the Legislature, and indirectly recommended to the favour of this House by the other.

3rdly, Because, at a time when the unfortunate situation of Europe renders that exertion which proceeds from a union of sentiment so desirable, and when the people of this country are suffering under the pressure of an unprecedented accumulation of taxes, we cannot but feel the deepest concern that this House should reject a measure so intimately connected with that system of economy in the expenditure of public money, which the people have a right to expect ; we dread that it will extinguish all hopes of deriving any benefit from that committee of finance, to whose exertions the people of this country have been taught to look with favour, and that it will give rise to secret feelings of discontent at a moment when prudence calls for such measures as are best calculated to produce a union of efforts in the common cause.

James Maitland, Lord **Lauderdale** (Earl of **Lauderdale**).

Henry Richard Fox Vassall, Lord **Holland**.

Thomas Douglas, Earl of **Selkirk**.

George James Cholmondeley, Earl **Cholmondeley**.

Peter Leopold Louis Francis Cowper, Earl **Cowper**.

For the two last reasons.

Robert Grosvenor, Earl **Grosvenor**.

CCCCLXXXVIII.

AUGUST 5, 1807.

The standing order 114 regulates the entry of protests. It rules that protests must be delivered in at two o'clock P.M. after the debate which gives occasion to the protest. Lord Holland wished to make one or two alterations in the reading of his protest of the day before, and asked for leave to do so. This was refused at the instance of the Chancellor (Eldon). The order was temporarily suspended in 1812. An attempt had been made to repeal the order on the 30th of March, 1797, but the attempt failed.

The following protest was entered.

Because the protesting Lords might be anxious to assign as a reason against the rejection of the Bill, the assurances which were held out to the public, that the late dissolution of Parliament was not suggested by his Majesty's advisers for the purpose, nor should in its consequences have the effect of frustrating or even interrupting the benefits likely to arise from the labours of the committee of finance. Assurances which, in our opinion, have been violated by the sudden and unexpected rejection of the Bill.

Henry Richard Fox Vassall, Lord **Holland**.
 James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
 Peter Leopold Louis Francis Cowper, Earl **Cowper**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 John Ponsonby, Lord **Ponsonby of Imokilly**.

CCCCLXXXIX.

AUGUST 12, 1807.

On this day an Irish Arms Bill, intended to prevent improper persons from having arms in that country was read and passed. The Act is 47 George III, Sess. 2. cap. 54. It was continued by successive Acts till the year 1823.

The following protest was entered.

For the same reasons which were entered on the Journals of this House on the 31st of July last, against passing the Bill to prevent insurrections in Ireland.

Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

CCCCXC, CCCCXCI.

JANUARY 21, 1808.

The siege of Copenhagen began on the 28th of August, and the bombardment of the town on the 2nd of September. The city capitulated on the 5th, and the fleet was surrendered.—Alison, vol. xi, chap. 51. The action, even according to this author, was loudly condemned over Europe, though Alison defends it on the stipulations in the treaty of Tilsit. The events were alluded to in the King's Speech, apologetically. Reference is also made to the decrees of Berlin on the 21st of November, and of Milan on the 17th of December, both of which were issued in this year.

The following protests were entered on the rejection of a proposal to leave out the third clause in the amendment, that which referred to the bombardment of Copenhagen, and the capture of the Danish fleet.

Because no proof of hostile intention on the part of Denmark has been adduced, nor has any case of necessity been made out, to justify the attack upon Copenhagen, without which, the measure is, in our conception, discreditable to the character, and injurious to the interests of this country.

William Frederic, Duke of Gloucester.

Francis Rawdon, Lord Rawdon (Earl of Moira).

James Maitland, Lord Lauderdale (Earl of Lauderdale).

Charles Grey, Earl Grey.

Henry Richard Fox Vassall, Lord Holland.

Charles Howard, Duke of Norfolk (Earl Marshal).

Henry Addington, Viscount Sidmouth.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

St. Andrew St. John, Lord St. John of Bletsoe.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).

For the foregoing reason, and these that follow :

1st, Because it has been only through the slow and painful progression of many ages, that civilized nations have emerged from a state of continual insecurity and violence, by the establishment of an universal public law, whose maxims and precedents have been long acknowledged to be of the same force and obligation as the municipal Constitutions of particular States ; a system which has gradually ripened with the advancement of learning, and the extension of commerce, and which ought to be held sacred and inviolate by all Governments as binding the whole civilized world under one politic and moral dominion.

2ndly, Because alleged departures from the principles and authority of this public law, in the earliest stages of the French

Revolution, were held out by the Parliament of Great Britain as the origin and justification of the first war with revolutionary France. And, because in all its subsequent stages the continuance of hostilities was uniformly vindicated in various Acts of state, as being necessary for the support of the moral and political order of the world, against the avowed disregard and subversion of it by the different Governments of France, in their groundless and unprovoked attacks upon the independence of unoffending nations.

3rdly, Because the people of Great Britain, on being repeatedly called upon by the King and Parliament to support the public law, thus alleged to have been violated, and to exhibit an example to the most distant ages of inflexible national virtue, submitted to the heaviest burthens, and sacrificed the most essential advantages, rather than consent to any peace which was considered by their Government as an abandonment of their allies, or as an inadequate security for the rights and privileges of other nations. And because it appears in many state papers, during the progress of the wars with the different Governments of France, that it was the duty and the interest of Great Britain, and her pledge to the world, to maintain inviolate the acknowledged principles of public law, as the only foundations upon which the relations of peace and amity between nations could be supported.

4thly, Because it is the very first and most indispensable maxim of public law, founded indeed upon the immutable principles of justice, that no violence should be offered by one state to another, nor any intrusion made upon the rights, property, independence, or security of its inhabitants, except upon an aggression by such state, and the refusal of adequate satisfaction, or in the rare instance of indispensable necessity involving national destruction, such as in the case of an individual would justify homicide, or destruction of property for self-preservation. And because the observance of this rule should, if possible, be held more sacred by great and powerful nations, it being the very end and object of universal law to give perfect security to the weakest communities, under the shadow of an impartial justice.

5thly, Because the late attack upon Copenhagen, in a season of profound peace with the Crown and people of Denmark, and immediately following the solemn declaration by the Crown Prince,

of his resolution to maintain his neutrality, and to consider any nation as an enemy which should seek to disturb it, would, without some just cause, which in this case is wholly unsupported by proof, be a most manifest and unprincipled departure from the whole system of moral policy and justice, which the British Government had, as above, professed to act upon. Inasmuch as any contempt or violation of public law by the Government of France, though it might release Great Britain from all observance of it, as far as regarded such offending belligerent, could not possibly destroy or affect its protective sanctions in her intercourses with friendly and peaceable states; on the contrary, it ought to have invested the law of nations with a more binding and sacred obligation, since the professed object and justification of our war with France at that very moment was to restore to a suffering world the good faith and security which has been lost by a contempt of its dominion.

6thly, Because informations of a projected confederacy between France and Denmark, assumed, without evidence, to have been communicated to ministers, through channels which called on their parts for inviolable secrecy, might be a foundation for acquitting them of blame, if the question before the House had been the propriety of their acquittal or condemnation, yet it cannot possibly justify, in the absence of all proof, an address to his Majesty, pronouncing their attack upon Copenhagen to be an act of indispensable duty. Because giving credit to the declarations of ministers, that they had informations of such projected confederacy, it is impossible for this House to know whether they ought to have been acted upon to so dreadful an extent, without having before it most precisely and distinctly the specific nature of such communications, so as to be able to estimate the credit due to them, not only from the facts themselves, but from the situations and characters of the persons by whom they were made.

The conduct, besides, of ministers in the whole transaction, is in manifest opposition to this principle of the attack. They made no such charge upon Denmark when before Copenhagen, nor even pretended to have invaded her with a cause of war. Their language upon the spot, and even in the address proposed to his Majesty, is the language of regret, a language utterly inconsistent with

the vindication of a proceeding which would have been as mild and forbearing against an enemy, as it was barbarous and treacherous against a friend. The position also of Denmark, when the assault was made upon her, is the strongest evidence to resist the presumption of an understanding with France. Her army was in Holstein, which France was menacing, whilst Zealand was left defenceless, and the ships dismantled, at a moment when the consciousness of a treaty or confederacy must have suggested to all the contracting or confederating parties, the necessity of concentrating the whole force of Denmark to defend the capital, and to secure her fleet.

7thly, Because no evidence whatever has been laid before the House, to establish any hostile confederacy between Denmark and France, nor any design on the part of the former to depart from the strictest neutrality; on the contrary, the above-mentioned solemn declaration of the Crown Prince to the British minister, ought to have been received by His Majesty's servants as the pledge of a firm resolution to maintain neutrality; and because nothing short of a hostile design in the Government of Denmark, could justify the demand of her fleet, or the bombardment of Copenhagen, to enforce the surrender of it.

8thly, Because it was completely in the power of Great Britain to have protected the Danish fleet from any hostile attack of France, which destroys the pretence of such an indispensable necessity as could alone justify even the slightest trespass upon a peaceable and unoffending State.

9thly, Because, still assuming, in the absence of all evidence to the contrary, that the Government of Denmark was faithful to her neutrality, no speculation of the probable fall of her fleet into the possession or power of France could possibly justify its hostile seizure by Great Britain. Such a principle would be utterly subversive of the first elements of public law, as being destructive of the independence of weaker States, inasmuch as it would create a jurisdiction in the stronger nations to substitute their own security and convenience for the general rule, and invest them also with the sole privilege of determining the occasions upon which they might consider them to be endangered; and because, to justify the attack and plunder of a weak unoffending power, upon the assumption that a stronger belligerent might otherwise

attack and plunder her, would be to erect a new public law upon the foundations of dishonour and violence, making the tyranny of one nation a warrant for substituting the dominion of oppression for the sacred obligations of morality, humanity, and justice.

10thly, Because, supposing it to have been not only probable, but even certain, that France could have succeeded in carrying away in the winter the ships and stores from Copenhagen, but without the consent of Denmark, faithful to her neutrality; the iniquity of the act in sound policy, independently of all considerations of justice, ought to have been left to the French Government to perpetrate, because the carcasses of the ships would have been the only fruit of an act of the deepest atrocity, whilst the indignation of a brave and generous people, now too justly directed against Great Britain, would then have been pointed against France; and Denmark, with the protection of our fleets, might have kept open the Baltic to our commerce, and extended our maritime means of restoring the tranquillity of the world.

11thly, Because, until this attack upon Copenhagen shall receive vindication, by proof of its justice or condemnation in the absence of it from the Parliament of Great Britain, she has lost her moral station in the world; since the very system of wrong and violence which she has so long confederated Europe to destroy, at the expense of her blood and resources, will have been established and confirmed by her own example.

12thly, Because a whole nation ought not in the mean time to be dishonoured, nor its immemorial characteristic brought into question, for the acts of ministers; and because it is the duty of those subjects who, by the constitution of the government, have the high privilege of perpetuating their sentiments upon the public records of their country, to vindicate themselves from the imputation of having acquiesced in acts of the greatest injustice.

Thomas Erskine, Lord Erskine.

George James Cholmondeley, Earl Cholmondeley.

John Bligh, Lord Clifton (Earl of Darnley).

For all the above reasons except the sixth.

Henry Richard Fox Vassall, Lord Holland.

CCCCXCII.

FEBRUARY 25, 1808.

The Earl of Carlisle called attention to the fact that an order in Council had been issued on the 25th of November, which distinctly contravened the Statute 7 Geo. III, cap. 45. This Act provided certain regulations for the trade of the Isle of Man, forbidding exportation of certain enumerated articles under pain of forfeiture of ship and goods, and further prosecution. The order of Council authorised such an exportation, and Lord Carlisle moved that it was a breach of the law. The motion was however negatived, and the following protest was inserted¹.

Because the proposition stated in this motion is evidently and undeniably true. We conceive the proper mode of interpreting the laws of our country, and the acts of its government, to be according to the plain sense of the words therein used.

The words of the order stated in the motion expressly declare, that the articles therein mentioned may be exported to certain places there referred to, and the statute of the seventh of his present Majesty does in terms equally explicit prohibit such exportation.

And we conceive, that any case of an order issued by his Majesty in Council, contravening the statute law of the realm, is a matter of such importance as to require the most serious attention of this House.

Frederic Howard, Earl of Carlisle.

William Wyndham Grenville, Lord Grenville.

Thomas Erskine, Lord Erskine.

George John Spencer, Earl Spencer.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

Charles Grey, Earl Grey.

William Eden, Lord Auckland.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

George Capel, Earl of Essex.

CCCCXCIII.

MARCH 3, 1808.

The following address to the King was moved by Lord Darnley and opposed by Lord Eliot.

¹ Another protest on a similar occasion, but without reasons, was signed by twenty-three Peers on the 29th of February.

That after attentively considering all the public documents before us, concerning the late attack on Copenhagen, and the war which it has produced, we have found the information which they afford extremely imperfect and unsatisfactory.

That in a matter in which both the honour and the interests of our country are so deeply concerned, we had hoped for the fullest explanations. The principles of our Constitution, and the uniform practice of his Majesty and the Sovereigns of his illustrious House, require that Parliament should be strictly apprised of the true grounds of entering into new wars, especially in a situation of our country wholly unprecedented.

Had Denmark been a party to any hostile confederacy against the rights or interests of the British Empire, our resistance would have been necessary, and our warfare legitimate: under such circumstances we should only have had to regret, that the ports and arsenals of that country should so lightly have been abandoned, when advantages so very inconsiderable had been derived from their temporary occupation, and when, by our continuing to hold them during the war, all real danger from that quarter might have been effectually averted.

But we cannot doubt that Denmark, instead of engaging in hostile leagues, had resolved still to maintain her neutrality. This fact is proved even by the imperfect documents which have been laid before us, and is confirmed by the proclamation issued by his Majesty's commanders immediately before the attack.

Certainly Denmark was no party, nor does it appear that she was privy to any confederacy hostile to this country; we are not even satisfied that such a league did really exist.

The conclusion of any secret articles at Tilsit, affecting the rights or interests of the British Empire, appears to have been uniformly denied both by Russia and France.

The correspondence of his Majesty's Secretary of State, and the dates of the transactions themselves, prove that his Majesty's Ministers could not be in possession of any such Articles when the attack was ordered against Copenhagen; and it has been distinctly admitted in this House, that they have not yet obtained a copy of them.

The King's ambassador at Petersburg, in an official note, rested the defence of the measure, not on any hostile purposes either of

Denmark or of Russia, but solely on the designs which it was said the French Government had long since been known to entertain.

His Majesty's Ministers not only forbore to advise such measures as would have been necessary to repel any real hostility of Russia, but they actually solicited the mediation of that power to extinguish a war, and her guaranty to defeat projects in which it is now pretended they knew her to have been a principal and contracting party.

Allegations thus inconsistent with each other, and contrary to admitted facts, weaken instead of supporting the cause to which they are applied.

With respect to the alleged necessity of the case, we beg leave to assure his Majesty, that we cannot think so meanly of the power and resources of his empire, of the spirit of his people, or of the valour and discipline of his fleets and armies, as to admit that such an Act could have been required for any purpose of self-preservation.

Any temporary advantages which the possession of such ships and stores as were taken at Copenhagen can afford, are already much more than counterbalanced by the consequences of a measure, which appears not less objectionable in policy than in principle. That measure has augmented the number of our enemies; it has countenanced the injurious representations circulated throughout Europe, respecting our principles and designs, and has inflamed against us the warmest passions of neutral and of friendly nations.

But it has above all shaken our own persuasion of the justice of our cause; a sentiment which has hitherto supported us through all our difficulties, commanding the respect of other Powers, and encouraging us in an humble but confident reliance on the ultimate protection and blessing of Providence.

Unwilling as we are even yet to pronounce definitely on a subject, the full knowledge of which has been so pertinaciously withheld from us, and reluctant as we must ever be to admit conclusions unfavourable to the justice of those Councils by which his Majesty's conduct has been actuated, we are yet compelled on such an occasion to speak to his Majesty the language of truth. And we must therefore with all humility, and with the most unfeigned and heartfelt sorrow represent, that in a case which above all others required the clearest proof, every presumption is against us; and

that no particle of evidence has yet been adduced, by which our national character can be vindicated from the guilt of an unprovoked and premeditated violation of that good faith, justice, and humanity, which have hitherto been at once the glory and the safeguard of the British Empire.

It was after debate rejected by 110 to 51, and the following protest inserted.

For the reasons which are assigned in the proposed address to his Majesty, and which we are desirous of recording as a memorial of our sentiments, on a measure which has, as we fear, fixed an indelible stigma on the honour of our country.

William Frederic, Duke of Gloucester.
Henry Richard Fox Vassall, Lord Holland.
Edward Smith Stanley, Earl of Derby.
George John Spencer, Earl Spencer.
Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).
Francis Rawdon, Lord Rawdon (Earl of Moira).
George Capel, Earl of Essex.
John Bligh, Lord Clifton (Earl of Darnley).
George Granville Leveson Gower, Marquis of Stafford.
John Crewe, Lord Crewe.
George Child Villiers, Earl of Jersey.
John Russell, Duke of Bedford.
William Charles Keppel, Earl of Albemarle.
William Wyndham Grenville, Lord Grenville.
John Joshua Proby, Lord Carysfort (Earl of Carysfort).
William Eden, Lord Auckland.
Henry Addington, Viscount Sidmouth.
Charles Grey, Earl Grey.
John Ponsonby, Lord Ponsonby of Imokilly.
St. Andrew St. John, Lord St. John of Bletscoe.
John Hely Hutchinson, Lord Hutchinson.
Peter King, Lord King.
John Campbell, Lord Breadalbane (Earl of Breadalbane).
William Wentworth Fitzwilliam, Earl Fitzwilliam.
James Maitland, Lord Lauderdale (Earl of Lauderdale).
Archibald Kennedy, Lord Ailsa (Earl of Cassilis).
Thomas Erskine, Lord Erskine.
John Howard, Earl of Suffolk and Berkshire.
Robert Hobart, Earl of Buckinghamshire.

CCCCXCIV.

MARCH 3, 1808.

After Lord Darnley's motion for an address had been defeated, Lord Eliot moved a vote of approval of the King's Ministers, for 'their prompt and vigorous measures in removing out of the reach of his Majesty's enemies the fleet and naval resources of Denmark.' This was carried by 125 to 57, and elicited the following protest.

Because we hold it to be highly unbecoming for this House to pass a vote of approbation of ministers, without any proof of the allegations adduced by those ministers in their own cause, upon so momentous and so questionable a proceeding.

William Frederic, Duke of Gloucester.
Henry Richard Fox Vassall, Lord Holland.
Edward Smith Stanley, Earl of Derby.
George John Spencer, Earl Spencer.
Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).
Francis Rawdon, Lord Rawdon (Earl of Moira).
George Capel, Earl of Essex.
John Bligh, Lord Clifton (Earl of Darnley).
George Granville Leveson Gower, Marquis of Stafford.
George Child Villiers, Earl of Jersey.
John Russell, Duke of Bedford.
John Crewe, Lord Crewe.
William Charles Keppel, Earl of Albemarle.
John Joshua Proby, Lord Carysfort (Earl of Carysfort).
William Wyndham Grenville, Lord Grenville.
Henry Addington, Viscount Sidmouth.
William Eden, Lord Auckland.
Charles Grey, Earl Grey.
John Ponsonby, Lord Ponsonby of Imokilly.
St. Andrew St. John, Lord St. John of Bletsce.
John Hely Hutchinson, Lord Hutchinson.
Peter King, Lord King.
John Campbell, Lord Breadalbane (Earl of Breadalbane).
William Wentworth Fitzwilliam, Earl Fitzwilliam.
James Maitland, Lord Lauderdale (Earl of Lauderdale).
Archibald Kennedy, Lord Ailsa (Earl of Cassilis).
Thomas Erskine, Lord Erskine.
John Howard, Earl of Suffolk and Berkshire.
Robert Hobart, Earl of Buckinghamshire.

CCCCXCV.

MARCH 11, 1808.

On the 2nd of February, 1808, Lord Rawdon (Earl of Moira) brought in a Bill for the amendment of the Law of Debtor and Creditor, and for the punishment of the fraudulent debtor. It was read a second time on the 11th of March (Hansard, vol. x, p. 1068), and its rejection was moved by Lord Ellenborough (Lord Chief Justice). The Bill was rejected by 9 to 5.

The following protest was inserted.

1st, Because there has not been even an attempt to disprove in the debate the existence of grievous evils, asserted to attend the practice of imprisonment for debt in its present shape; while, on the other hand, the reality and the magnitude of those evils are substantiated by the Report of a Committee of the House of Commons in 1792, after long and laborious investigation made in the most solemn manner; which Report, recorded in the Journals of Parliament, calls imperiously on the Legislature to apply a remedy to the mischief.

2ndly, Because the present practice assumes against the debtor, either that there was delinquency in the contraction of the debt, or that, possessing the means, he fraudulently abstains from liquidating the just demands upon him; and this assumption, contrary to the first notion of equity, is made without any enquiry held upon the case, without any opportunity afforded to the debtor for rebutting such a suspicion; nay, without the shadow of imputation advanced by the creditor, that any dishonesty has existed in the transaction.

3rdly, Because the delivery of the debtor's person, to be kept in prison for an unlimited term, at the pleasure of the creditor, appears utterly indefensible, for these reasons:—

‘If it be as a satisfaction of the debt (the construction put upon it by the Courts) it is irrational; for it is evident, that in the nature of things the imprisonment of a debtor's person, howsoever protracted, never can be a liquidation of a sum; nor can it be intelligible as a balance against the inconvenience sustained by the creditor in not receiving payment, unless it were to be imagined that a sort of compensation was made to the creditor, by allowing him the indulgence of personal revenge without any examination of its grounds; a principle so revolting to justice, to humanity, and

•

to the rules of civil polity, that we must not believe it could ever find countenance from the authority of our Courts.

‘If it be as a means of coercing payment from a debtor who has the ability, but not the will, to satisfy his creditor, the provision falls completely short of the object, and has in experience been found inadequate; whilst it has the vice of confounding guilt established by legal trial, therefore deserving the pain of imprisonment, with imputed criminality unsupported by evidence, therefore not liable to punishment according to the spirit of British jurisprudence.

‘If it be to compel payment from a debtor who has the will, but not the ability to pay, unlimited imprisonment is obviously absurd, and no less obviously unjust. Confinement and the interruption of his industry cannot give to the debtor funds which he did not otherwise possess. All that common sense or equity can require is, that the debtor shall make to the creditor the amplest compensation in his power, by the surrender of whatsoever property he has, either in immediate possession or in reversion; a condition made indispensable by the provisions of the Bill now rejected.

‘And on each of these suppositions the practice sins against the fundamental principle of all law, which is, that no man shall himself judge the extent of injury he has received, or shall himself measure the degree of punishment to be inflicted on the offender.’

4thly, Because, a case where culpable deceit or imposition has taken place in the contraction of a debt stands apart from the ordinary question; and the wholesome severity of the law should in such a case visit the fraud, though it be not applicable to the simple debt. The Bill had authorized this infliction, which the Courts, as the law now stands, cannot direct. The Bill had further, for the relief of creditors, rendered the surrender of property compulsory on the debtor, which is at present but partially and insufficiently the case under the provisions of the Lords’ Act. And we cannot but consider the want of such enactments as highly detrimental to the fair creditor.

Francis Rawdon, Lord Rawdon (Earl of Moira).

Henry Richard Fox Vassall, Lord Holland.

Dissentient for the first and second reasons.

John Howard, Earl of Suffolk and Berkshire.

CCCCXCVI.

MARCH 15, 1808.

The Sale of Offices in Reversion Bill, after again passing the Commons, was read a second time on the 1st of March, when it was opposed, as before, by Lord Arden, Lord Redesdale, Lord Auckland, and the Duke of Montrose. On the 10th of August, 1807, after the rejection of the Bill by the Lords, Mr. Bankes moved an address to the Crown praying the King not to grant such offices, till six weeks after the commencement of the next Session of Parliament, which was carried without a dissentient voice. When the Bill was introduced into the House of Commons, Mr. Whithead made some pointed allusions to the sinecure held by Mr. Perceval, and that enjoyed by Lord Arden, Mr. Perceval's brother. On the 1st of March, the Bill was debated in a rather full House, and the second reading was carried by 69 to 61, twenty-two Peers protesting, among them the Dukes of York, Cumberland, and Cambridge, and three Bishops, the remainder being chiefly Scotch and Irish Lords. Those Peers gave no reason for their protest. On the 15th of March, the Bill was read a third time, and rejected by 128 to 48, fifty-nine of the majority being proxies. It appears that the increase of the majority was due to the fact that on the 10th of March, Lord Arden moved to discharge the order for going into committee, and that the votes were equal—eighty-four on each side, and that then Lord Hawkesbury proposed to postpone the operation of the law till the 1st of June, 1810. But this proposal was rejected by 59 to 21, and upon this the opposition to the Bill was increased. The plea of the majority was that the Bill was an encroachment on the prerogatives of the Crown.

The following protest was inserted.

1st, Because the Bill does not, in our opinion, invade any of the legal prerogatives of the Crown, or diminish any of its constitutional influence, but tends rather to secure both, by removing the temptation to negligence or abuse in the disposal of offices.

2ndly, Because it appears to us to be necessary, in this and every other instance, to secure to the subjects of this country, suffering under the pressure of an unprecedented accumulation of taxes, the means of an economical retrenchment or reform of such offices as can either be reduced in their emolument or entirely abolished, without injury to the dignity and power of the Crown, or to the interests of the public.

3rdly, Because, with respect to places granted in reversion, all means of retrenchment and reform are taken away, so long as the lives for which they are so granted shall continue.

4thly, Because reform and retrenchment in the public expenditure have been particularly recommended to us from the Throne; and

because we are apprehensive, that the rejection of the present Bill may be considered by the people of the United Kingdom, as indicating a disposition in this House not to give effect to that wise and salutary recommendation.

Henry Richard Fox Vassall, Lord **Holland**.
 James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
 Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 Charles Grey, Earl **Grey**.
 George Granville Leveson Gower, Marquis of **Stafford**.
 William Charles Keppel, Earl of **Albemarle**.
 Robert Smith, Lord **Carrington**.
 George Capel, Earl of **Essex**.
 Peter King, Lord **King**.
 George Child Villiers, Earl of **Jersey**.
 Peter Leopold Louis Francis Cowper, Earl **Cowper**.
 John Ponsonby, Lord **Ponsonby of Imokilly**.

For the first, second, and fourth reasons.

George John Spencer, Earl **Spencer**.
 John Bligh, Lord **Clifton** (Earl of Darnley).

CCCCXCVII, CCCCXCVIII.

MARCH 16, 1808.

During the whole of this Session, repeated attempts were made to check the issue of orders in council, on the ground that they virtually amount to a revival of the dispensing power on the part of the Administration. Lord Henry Petty in the Commons, and Lord Holland and others in the Lords, attempted on several occasions to arrest the practice. Thus a resolution of the Lords on the 8th of March strongly condemning this practice was debated on the motion of Lord Erskine (Lords' Journals, vol. xlv, p. 473, Hansard, vol. x, p. 929), and rejected by 61 to 127. The orders in Council Bill carried by the Government through the House of Commons granted certain duties to the King, &c., in furtherance of the provisions of certain orders in council, and came to the Lords, where Lord Grenville moved its rejection chiefly on the plea of its violation of standing order 25, relative to tacks. The first reading of the Bill was however carried by 120 to 52. It produced the following protests.

Because the annexing any clause or clauses to a Bill of aid or supply, the matter of which is foreign to and different from the matter of the said Bill of aid or supply, is unparliamentary, and tends to the destruction of the constitution of this Government.

Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 Charles Grey, Earl **Grey**.

William Wyndham Grenville, Lord Grenville.
John Joshua Proby, Lord Carysfort (Earl of Carysfort).
Henry Richard Fox Vassall, Lord Holland.
Thomas Erskine, Lord Erskine.
James Maitland, Lord Lauderdale (Earl of Lauderdale).
George Child Villiers, Earl of Jersey.
John Campbell, Lord Cawdor.
George John Spencer, Earl Spencer.
William Eden, Lord Auckland.
George Grenville Nugent Temple, Marquis of Buckingham.
George James Cholmondeley, Earl Cholmondeley.
George Granville Leveson Gower, Marquis of Stafford.
John Crewe, Lord Crewe.
William Ponsonby, Lord Ponsonby of Imokilly.
John Bligh, Lord Clifton (Earl of Darnley).
William Charles Keppel, Earl of Albemarle.
Peter Leopold Louis Francis Cowper, Earl Cowper.
George Capel, Earl of Essex.

1st, Because such has been the anxiety to maintain inviolate the true spirit of the standing order of this House No. 25 declaring 'the annexing any clause or clauses to a Bill of aid or supply, the matter of which is foreign to and different from the matter of the said Bill of aid or supply, is unparliamentary, and tends to the destruction of the Constitution of this Government.' That Bills not of aid and supply, if they contained a clause imposing a duty on his Majesty's subjects, have been recently rejected, on the ground, that regulations, though not altogether unconnected with the purpose for which such tax was imposed, might be considered as foreign to and different from the aid given to the use of his Majesty by such clause.

For we observe in the entry of the Journals of this House on the 3rd of August, 1807, that a Bill, intituled, 'An Act to provide for abolishing fees received by officers in the service of the customs in the several ports of Ireland, and for making compensation to the said officers, and for regulating the hours of attendance and number of holidays to be observed by them,' was, after reading the said standing order, rejected, the following Lords being on that day marked as present; Duke of Cumberland, Lord Chancellor, Lord Archbishop of Canterbury, Duke of Portland; Earls Cholmondeley, Selkirk, Balcarres, Glasgow, Graham, Buckinghamshire, Grosvenor, Kingston, Limerick, Normanton; Viscounts Carleton, Longueville, Melville, Sidmouth; Bishop of Oxford; Lords Napier,

Holland, Walsingham, Rawdon, Borringdon, Douglas of Lochleven, Hood of Catherington, Stewart of Garlies, Redesdale, Arden, Erskine, and Lauderdale.

2ndly, Because it appears to us that the Bill, intituled, 'An Act for granting to his Majesty, until the end of the next Session of Parliament, duties of customs on the goods, wares, and merchandise therein enumerated, in furtherance of the provisions of certain orders in council,' the motion for the rejecting of which has been negatived by this House, is a bill of aid and supply; and that it contains,

1. A clause which, as it at present stands, clearly prohibits the merchants of England trading to the East Indies from selling any of the goods or merchandise they may import, and compels them, on bringing such goods or merchandise into this country, to warehouse the same under the King's locks for re-exportation.

2. A clause for taking off, in certain cases, a duty of two shillings a ton imposed on ships of the United States of America, by an Act of the thirty-seventh year of his Majesty's reign.

3. A clause enacting that no action or suit shall be brought or commenced against any person for anything done in pursuance of the orders in council of the 9th and 25th of November, 1807, except such action be commenced within three calendar months after the fact committed, and many other clauses, which are stronger and more direct violations of the said standing order than anything contained in the Bill rejected on the 3rd of August, 1807.

3rdly, Because when we reflect that the Bill rejected on the 3rd of August, 1807 purports to be a Bill for establishing regulations tending greatly to the benefit of the fair trader and the security of the revenue, and that the Bill now under the discussion of this House is a Bill which appears from the votes of the House of Commons to have been complained of by numbers of petitioners as destructive of trade and revenue, we cannot conceive any reasonable ground why this House should disregard a standing order which is of such fundamental importance to the preservation of the Constitution, and which it has on all occasions, particularly in the instance above referred to, shewn so much anxiety to enforce, whenever any attempt to contravene it has attracted attention.

We are therefore apprehensive, that this departure from the established principle and recent practice of the House may be suspected to have proceeded from a desire to hurry through Parliament this complicated and dangerous measure, which threatens the destruction of our commerce, and to prevent the people of this country from being heard against the provisions of a Bill which may prove ruinous to their most valuable interests.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

John Bligh, Lord Clifton (Earl of Darnley).

George John Spencer, Earl Spencer.

William Wyndham Grenville, Lord Grenville.

William Eden, Lord Auckland.

George Capel, Earl of Essex.

Charles Grey, Earl Grey.

Henry Richard Fox Vassall, Lord Holland.

Peter Leopold Louis Francis Cowper, Earl Cowper.

Peter King, Lord King.

George Child Villiers, Earl of Jersey.

George Granville Leveson Gower, Marquis of Stafford.

Thomas Erskine, Lord Erskine.

John Campbell, Lord Cawdor.

George James Cholmondeley, Earl Cholmondeley.

John Crewe, Lord Crewe.

CCCCXCIX.

MARCH 19, 1808.

On the passage of the Mutiny Bill through Committee, Lord Grey moved that a clause allowing persons to enlist for unlimited service be left out of the Bill. He did not invite debate on the subject however, but merely proposed it, that his opinion might be in record on the Journals of the House. His proposal therefore was negatived without a division, and the following protest inserted.

1st, Because the words proposed to be omitted, by establishing an option between limited and unlimited service, effect an alteration in a system, the success of which has always appeared to us to depend on a long, scrupulous, and uninterrupted adherence to the principles on which it was originally formed.

The inducement held out to enlist, by limiting the term of service, is founded on no immediate bounty or reward, but on the hope of future and distant advantages. A confidence in its stability is therefore absolutely necessary to its success; and any alteration must tend to shake that confidence, and to create an

apprehension in the minds of the people, that changes from time to time will be introduced, that faith to individuals will not be scrupulously maintained, and that the advantages held out to them will become precarious and uncertain, as well as remote.

Nor are such suspicions likely to be allayed by the reflection, that the alteration in question was chiefly supported by persons avowedly hostile to the principle of limited service, and that the arguments urged in favour of it in debate were more calculated to recommend a total subversion than a modification or improvement of the system so recently established.

2ndly, Because the particular alteration now adopted tends to counteract the beneficial operation of the original measure, by rendering complicated a system which it was peculiarly desirable should be distinctly understood by that class of the community from which our army is chiefly recruited.

3rdly, Because no necessity arising from any failure of the system established in 1806 has been or can be urged in justification of the change¹ now introduced. On the contrary, the marked preference given to limited service by those who enlisted from the Militia under the Act of last year, the general success, and above all, the regular and progressive improvement which has hitherto attended the recruiting for a limited term of years, have exceeded the hopes and confirmed the expectations of the most sanguine of its supporters.

4thly, Because the change is not recommended by any immediate advantage, nor adapted to any extraordinary exigency of the time, but calculated, solely in the view of its supporters themselves, to surmount difficulties at once speculative and remote.

5thly, Because the admission of soldiers for life into the army tends to perpetuate the existence and to aggravate the inconveniences of that mixture in the conditions of service which, when temporary and unavoidable, formed the most plausible objection to the original measure.

For these reasons, we thought it hazardous to adopt a regulation recommended by no motive of convenience, and liable to many serious objections. We were unwilling, hastily and wantonly, to interfere with what was apparently well; and we were

¹ The original has 'change.'

anxious to record our disapprobation of an experiment which must disturb, and may eventually, if not intentionally, subvert a system calculated to produce a constant, ample, unoppressive, and cheap supply of recruits to the army.

Henry Richard Fox Vassall, Lord Holland.

Henry Grey, Earl Grey.

George Child Villiers, Earl of Jersey.

George Capel, Earl of Essex.

John Campbell, Lord Cawdor.

D.

MARCH 25, 1808.

The Orders in Council Bill was read a third time and passed this day by 52 to 19. On the 22nd of March an attempt was made to pass a resolution condemnatory of the system, which was defeated by 56 to 21. When the Bill was brought forward again, a number of amendments were proposed, chiefly by Lords Grenville and Auckland, which had been previously negatived in Committee, and were now negatived anew. The subjoined protest, as before, is a complaint of the inconsistency of the Bill with Standing Order No. 25, 'That no clause be annexed to a Money Bill foreign to the matter.'

1st, Because this Bill appears to us to have been passed in manifest violation of the letter and spirit of the Standing Order of the House, No. 25, the maintenance of which Order is essential not only to the privileges of this House, but also to the fundamental principles of our Constitution and Government.

2ndly, Because the unprecedented manner in which commercial regulations of the highest importance are in this Bill coupled with matter of aid and supply, and the precipitation with which the Bill has been hurried through the House, when evidence is about to be heard as to the effect of the late Orders in Council, in furtherance of which the Bill is passed, give to this measure, in our judgments, a character which we are always unwilling should attach to any Act of the Legislature of our country.

3rdly, Because various amendments proposed to be made to this Bill have been rejected by this House, although the same were obviously necessary to give effect to those very provisions which the Bill was intended to establish, and to remove doubts admitted to exist as to the legal construction of some of its most important provisions.

4thly, Because the object of the Bill is to give effect to the late

Orders in Council, which it declares to have been expedient and necessary; whereas we conceive them to have been wholly-unjust and unnecessary, and in the highest degree injurious to the most important interests of the country.

William Wyndham Grenville, Lord **Grenville**.
 Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 George Granville Nugent Temple, Marquis of **Buckingham**.
 St. Andrew St. John, Lord **St. John of Bletsoe**.
 George John Spencer, Earl **Spencer**.
 Francis Rawdon, Lord **Rawdon** (Earl of Moira).
 Thomas Erskine, Lord **Erskine**.
 George Capel, Earl of **Essex**.
 Charles Grey, Earl **Grey**.
 James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
 William Ponsonby, Lord **Ponsonby of Imokilly**.
 Henry Richard Fox Vassall, Lord **Holland**.
 George Child Villiers, Earl of **Jersey**.
 John Bligh, Lord **Clifton** (Earl of Darnley).
 William Eden, Lord **Auckland**.

DI.

APRIL 7, 1808.

By 48 George III, cap. 33, the exportation of Jesuit's Bark (Cinchona Bark) was forbidden. On the third reading of this prohibitory Bill, evidence was taken on the subject before the Lords (Journals, vol. xlv, p. 541 sqq.), chiefly on the depreciation of price in the article, which the prohibition would occasion. A proposal to compensate the trade losses of such persons as dealt in it was rejected without a division, and the Bill was carried by 110 to 44. The following protest was inserted.

1st, Because the Jesuit's Bark, the exportation of which is prohibited by this Bill, has been found by long experience to be a specific for many dangerous diseases which are incident to our nature, and which war has a tendency to exasperate; and because, to employ as an engine of war the privation of the only remedy for some of the greatest sufferings which war is capable of inflicting, is manifestly repugnant to the principles of the Christian religion, contrary to humanity, and not justified by any practices of civilized nations.

2ndly, Because the means to which recourse has been hitherto had in war, have no analogy to the barbarous enactment of this Bill, inasmuch as it is not even contended, that the privation to be created by it has any tendency whatever to self-defence, or to compel the enemy to the restoration of peace, the only legitimate ends

by which the infliction of the calamities of war can in any case be justified.

3rdly, Because the only possible answer to these objections is, that the Bill will not produce the privation which is held forth as its ostensible object, inasmuch as the Jesuit's Bark may be exported under licences from the Crown; but such an answer would only prove the Bill to be wholly useless to its purposes, whilst it would still leave in its full operation the odious precedent of having resorted in cold blood for the mere speculative sale of our own manufactures, even to the possible infliction of miseries not to be vindicated but for self-preservation, or in the extremities of war, directed to that justifiable object.

4thly, Because, as no scarcity of the Jesuit's Bark appears at present to exist in France, and as in the contrary case no possible exertion on the part of this country could effectually prevent its importation into the numerous ports under the dominion or control of the French Government, the Bill appears to us to be grossly vicious in principle, whilst it is absolutely nugatory in practice; and therefore in every point of view disgraceful and absurd.

5thly, Because, if it were even just, expedient, or practicable to force the importation of our manufactures upon our enemies by withholding the Jesuit's Bark, but upon condition of their permitting such importation, that principle should have been distinctly expressed in the Bill, and the conditions specifically detailed in it, instead of vesting in the Crown an arbitrary discretion to dispense with the prohibition by licences, a power destructive of the equality of British commerce, and dangerous to the freedom of the British Constitution.

Thomas Erskine, Lord **Erskine**.

George James Cholmondeley, Earl **Cholmondeley**.

John Fitzpatrick, Lord **Upper Ossory** (Earl of Upper Ossory).

John Russell, Duke of **Bedford**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

Frederic Ponsonby, Lord **Ponsonby** (Earl of Beasborough).

John Bligh, Lord **Clifton** (Earl of Darnley).

William Charles Keppel, Earl of **Albemarle**.

St. Andrew St. John, Lord **St. John of Bletsae**.

John Ponsonby, Lord **Ponsonby of Imokilly**.

George Capel, Earl of **Essex**.

Peter King, Lord **King**.

Robert Smith, Lord **Carrington**.

William Wyndham Grenville, Lord Grenville.
James St. Clair Erskine, Earl of Rosslyn.

DII.

APRIL 8, 1808.

A Bill, similar to that forbidding the exportation of Jesuit's Bark, and designed to retaliate on the Berlin and Milan decrees, by prohibiting the exportation of Cotton Wool, was brought from the Commons to the Lords, and read a third time on the 8th of April. An attempt was made in the debate on the third reading to provide that when a licence to export was given, the licence should be given by lot, the drawer of the lot being the Secretary of the Board of Trade. The mover of the prohibitory Bill was Lord Bathurst, who justified the embargo on export by the fact that the whole Continent of Europe, except Sweden and Sicily, was the enemy of England. Lord Grenville opposed the policy of the Act on free trade principles. The third reading was carried by 44 to 13.

The following protest was inserted.

1st, Because, as this Bill prohibits the exportation of all Cotton Wool, and the Orders in Council of the 11th and 25th of November, 1807, force into British ports the whole of that commodity sent by America for the supply of foreign States, the quantity brought by these and other means into the British market must be so great in proportion to the demand, as to reduce the value of that commodity to a trifle.

When we consider, therefore, that the usual exportation of Cotton Wool from America in two hundred and fifty thousand bags, amounting, at twelve pounds per bag, to the value of three millions sterling, we conceive that this is not only a gross violation of the law of nations, but the most substantial injury ever inflicted on a friendly and independent State.

2ndly, Because this reduction of the value of Cotton Wool will discourage the growth of it to a degree that must, on the return of peace, when the demand for our cotton goods revives, deeply injure this extensive branch of our manufactures, by producing a deficiency in the supply, and consequent dearth of the raw material.

3rdly, Because, much as we regret the unwarrantable provocation given to the United States of America, and the injury thus inflicted on our manufactures, we feel with still deeper affliction the evil with which this Bill threatens the Constitution of our country.

Whilst it prohibits the exportation of Cotton Wool, it permits

his Majesty, by licence under his sign manual, to authorize any person to export from Great Britain any quantity of Cotton Wool, under such regulations, restrictions, and securities as may be specified in the licence, and thus confers on the Crown a legal right to arrange and share out the trade in a most valuable commodity ; a principle which, if extended to other articles, must create a new and alarming source of influence, almost boundless in the extent to which it may be carried.

Even when confined to the present instance of Cotton Wool, it appears to us a most dangerous extension of the patronage of the Crown. We believe there is no intelligent merchant who must not think, that by the prohibition to export Cotton Wool, the value of that article will suffer a diminution to the amount at least of one million sterling. It is plain, therefore, that if his Majesty can, by granting licences, supply the markets to which Cotton Wool went before this unwarrantable interruption of the trade, as the commodity with the restoration of demand must resume its value, this immense sum may be corruptly distributed by the Executive Government, by giving licences to persons whose political conduct it may wish to influence.

4thly, Because we think there is just reason to believe, that this measure is adopted with a view to create the undue influence with which it arms the Executive Government ; for the following clause, which tends to do away the influence the Bill confers, without deranging the system it means to establish, was rejected by the House :—

‘ Provided always, That when his Majesty shall determine by licence to authorize the exportation of any given quantity of Cotton Wool, the Board of Trade shall announce such determination in the *Gazette*, together with the regulations, restrictions, and securities intended to be specified in the licence ; and the name of every person, who, within a week, shall state in writing to the Secretary of the said Board, his desire to export the quantity of Cotton meant to be exported under the conditions stipulated, shall be put into a glass jar ; and at twelve o’clock on the ninth day after the advertisement shall have been inserted in the *Gazette*, the Secretary of the Board of Trade shall, in the presence of such of the persons desirous of exporting Cotton Wool as may choose to attend, after mixing the names in a manner to preclude all sus-

picion of preference, draw out of the said jar one of the names therein contained, and his Majesty's licence shall forthwith be granted to the person whose name is so drawn.

5thly, Because, recollecting that within these few days, the two Houses of Parliament have received an unanimous petition of the Common Council of the City of London, declaring, 'That the burdens (borne by the people of this country) have been considerably augmented, by gross abuses in the management and expenditure of the public money, and by a profusion of sinecure places and pensions, which have not only greatly added to their sufferings, but created a pernicious and dangerous influence, corrupting and undermining the pure and free principles of the British Constitution,' we dread that the passing of this Bill must give rise to serious and alarming discontent, when it is known that it may eventually arm the Crown with a power of distributing a sum equal in amount to that which is allowed for defraying the expenditure of his Majesty's Civil List, unaccompanied by any check to prevent its being used for the purpose of augmenting, to an unparalleled degree, that 'pernicious and dangerous influence,' which has so solemnly been stated to Parliament by his Majesty's faithful and loyal subjects, the Corporation of London, as 'corrupting and undermining the pure and free principles of the British Constitution.'

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

Peter King, Lord **King**.

William Charles Keppel, Earl of **Albemarle**.

DIII, DIV.

MAY 27, 1808.

On the 11th of April, the Irish Roman Catholics presented a petition to the House of Lords, praying to be relieved of their disabilities, by the repeal of certain Statutes, penal and restrictive, on them. The petition may be found in the Journals, vol. xlv, p. 556. On the next day (ib. page 559), a counter-petition was presented by the Lord Mayor, Sheriffs, Commons, and Citizens of Dublin, praying the Lords to reject the petition. The matter was taken into consideration on the 27th of May, on the motion of Lord Grenville (Hansard, vol. xi, p. 643), but the petition was rejected by 161 to 74.

The following protests were entered.

1st, Because we are fully satisfied that the removal of the unmerited and degrading exclusion, to which a most numerous and

valuable part of the community have been so long subjected, and the imparting to the whole people of this United Kingdom all the privileges and duties of the British Constitution, would be a measure of unquestionable justice and wisdom.

2ndly, Because we conceive that this determination would in itself afford the best security for our civil and religious Constitution, whilst the proposal of considering the subject in a Committee of the whole House gave an opportunity of establishing, by the wisdom and authority of Parliament, and with the cordial concurrence of all parties, such safeguards, as must tranquillize the apprehensions of the most fearful, and allay the jealousies of the most suspicious.

3rdly, Because although the increased support and diminished resistance which this proposal has now experienced in both Houses of Parliament, as well as the manner in which it has been discussed, on the part of its opponents, encourages us to look forward with perfect confidence to its approaching and entire accomplishment; yet we are of opinion, that by delay many of its happiest effects are endangered; and we are confident that there never was, in the history of the world, a moment in which a measure in itself desirable was more imperiously called for by circumstances of immediate and uncontrollable necessity.

4thly, The uniting by mutual liberality, kindness, and confidence the hands and hearts of all his Majesty's subjects, in defence of the invaluable blessings of security, liberty, and national independence, is at this perilous crisis the first duty that we owe to ourselves and to our posterity; and it is the only mode by which we can reasonably hope, under the protection of Providence, to maintain these blessings amidst the misery and subjection of so many surrounding nations.

Peter Leopold Louis Francis Cowper, Earl **Cowper**.

George John Spencer, Earl **Spencer** (for the first and second reasons).

Anthony Ashley Cooper, Earl of **Shaftesbury**.

Henry Welbore Agar Ellis, Lord **Mendip** (Viscount Clifden).

Francis Rawdon, Lord **Rawdon** (Earl of Moira).

George Child Villiers, Earl of **Jersey**.

Walter Butler, Lord **Butler** (Marquis of Ormonde).

Edward Smith Stanley, Earl of **Derby**.

William Wyndham Grenville, Lord **Grenville**.

Hugh Fortescue, Earl **Fortescue**.

John Howard, Earl of **Suffolk and Berkshire**.
 George Grenville Nugent Temple, Marquis of **Buckingham**.
 John Russell, Duke of **Bedford**.
 Richard Hely Hutchinson, Earl of **Donoughmore**.
 Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 James St. Clair Erskine, Earl of **Rosslyn**.
 John Ponsonby, Lord **Ponsonby of Imokilly**.
 George Capel, Earl of **Essex**.
 John Hely Hutchinson, Lord **Hutchinson**.
 James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
 Charles Howard, Duke of **Norfolk** (Earl Marshal).
 St. Andrew St. John, Lord **St. John of Bletsce**.
 Henry Richard Fox Vassall, Lord **Holland**.
 George Granville Leveson Gower, Marquis of **Stafford**.
 George Spencer, Lord **Spencer of Wormleighton**.
 Edward Harley, Earl of **Oxford and Mortimer**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 George William Campbell, Lord **Sundridge** (Duke of Argyll).
 John Campbell, Lord **Cawdor**.
 Edward Adolphus Seymour, Duke of **Somerset**.
 Thomas Dundas, Lord **Dundas**.
 William Charles Keppel, Earl of **Albemarle**.

Because the fitness of yielding to, or resisting, in the whole or in part, the prayer of the petition so respectively submitted to the consideration of the House, depended upon principles so momentous, and details so complicated, as according to the ancient practice of Parliament ought to have been submitted to the more deliberate consideration of a Committee.

And because the petition having proceeded spontaneously from the Catholics of Ireland, supported by large bodies of their Protestant brethren, and sanctioned by that liberal and indulgent policy regarding them, which has so eminently characterised his Majesty's reign; it was most especially entitled to our favourable consideration¹.

Thomas Erskine, Lord **Erskine**.
 Charles Howard, Duke of **Norfolk** (Earl Marshal).
 George Spencer, Lord **Spencer of Wormleighton**.
 Henry Welbore Agar Ellis, Lord **Mendip** (Viscount Clifden).

¹ As the House sat till half-past five in the morning, leave was given to protest up to Monday, the 30th of May.

DV.

JUNE 21, 1808.

A local Militia Bill was brought forward and carried this year. An attempt was made by Lord Radnor to provide that those who had been balloted for in the training Act should be relieved from serving in the local Militia. The amendment was negatived, and Lord Radnor protested. The Act is 48 Geo. III, cap. 111.

Because, so far as the proposed amendment respected the Militia, I cannot but think that when the Legislature enacted (42 Geo. III, cap. 90, sect. 43), 'That no person having served personally, or by substitute, according to the directions of any Act relating to the Militia, shall be obliged to serve again until by rotation it shall come to his turn;' the promise of exemption from future compulsory service is absolute and unconditional, and cannot in good faith be vacated by the mere prefixing to the establishment in question the word 'Local'; and,

Because I cannot but think the attempt made in this Bill, to provide in behalf of persons so having served, or so having found substitutes, an exemption short of that which had been previously guaranteed; and of which, as the Act is not repealed, I venture to intimate my belief, that no Court will decide them not to be in full possession; must necessarily weaken the confidence of the public at large in the proceedings of the Legislature, and dishearten and disgust those whom the law has provided to execute the Militia system, and who in the discharge of that duty have, in reply to occasional complaint and dissatisfaction, to explain, to enforce, and to assert the fairness, the justice, and the consistency of such system.

Jacob Pleydell Bouverie, Earl of Radnor.

DVI.

JUNE 23, 1808.

By 48 Geo. III, cap. 108, the Bank of Ireland, in consideration of advancing £1,250,000 (Irish currency) to the King's service, at 5 per cent., was continued as the Corporation of the Bank of Ireland, and the privileges it had hitherto possessed were enlarged and increased. In the course of the debate on the third reading, Lord Lauderdale wished to have the opinion of the judges on certain clauses in the Bill, and made a

motion to that effect. The motion was negatived, and the following protest was inserted.

1st, Because it appeared of importance to have that opinion of the Judges, which this House by the Constitution is entitled to demand, on the following clause of a Bill, intituled, 'An Act for further extending the Provisions of several Acts for establishing the Bank of Ireland, and for empowering the Governor and Company of the said Bank to advance the sum of £1,250,000, Irish currency, towards the service of the year 1808:'

'And be it further enacted, That from the time the said sum of £1,000,000 shall be subscribed and paid in, under the Provisions of this Act, the said Corporation may borrow or give security for any sum or sums, so that they shall not owe at any one time more than a sum equal to the said sums of £2,500,000 and of £250,000; anything in the said hereinbefore recited Acts, or any of them, contained to the contrary notwithstanding.'

2ndly, Because we regard it as the indispensable duty of this House, to avail itself of the advice of the Judges concerning the legal import of a clause existing in the former Acts, which, though it limits in clear and express terms the circulation of the Bank of Ireland, is known never to have restrained the Directors in practice from circulating notes to a greater extent than the sum to which it apparently limited them.

3rdly, Because it is highly essential to the credit of the Bank of Ireland to remove those doubts which must arise on the perusal of this clause; and to make it evident to the people of that country, whether the property of the Bank, under this Bill, should it pass into an Act, will or will not be bound for the payment of notes which may be issued by the Governor and Directors of that Bank, beyond the value of £2,750,000.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DVII.

JUNE 23, 1808.

The Government, with a view at once to checking the consumption of grain, and relieving a glut of West India produce, in the interest of the Jamaica planters, brought in a Bill for the prohibition of distillation from grain (48 Geo. III, cap. 118). On the second reading the Bill was opposed by Lords Selkirk, Sidmouth, Albemarle, and Lauderdale, and defended by

Lords Bathurst, Holland, De Dunstanville, Hawkesbury, and the Duke of Montrose. It was read a second time without a division, and the following protest was inserted.

Because, when we consider that the price of wheat was not higher than 72*s.* per quarter, nor the price of barley more than 40*s.* on the 7th of May, about which time it was first proposed to stop the distilleries, under the pretended notion of an approaching scarcity, and that the price of wheat was 75*s.* 6*d.*, and of barley 44*s.* 9*d.* on the 1st of January, 1802, at which time the prohibition imposed in December 1801 was done away by the Legislature; it is obvious, that this measure proceeds upon grounds perfectly different from those prohibitions which were enforced in the thirty-fifth, thirty-sixth, and forty-first years of his Majesty's reign.

Because, as we learn from the Report of the Committee, communicated to this House by the House of Commons, that this measure was recommended 'with a view to apply as speedy a relief as possible to the case of the West India planters,' and that 'nothing in the evidence before them could have induced them to propose a measure so hurtful, independent of that consideration;' we feel it our duty to protest against a principle so novel and dangerous as that of depriving the agriculturist of the benefit he derives from the demand created by the distilleries, for the sole purpose of a temporary relief to the distresses of any other classes of the community.

Because, we see just reason to reprobate, in the strongest terms, that principle of commercial legislation now for the first time adopted, which sanctions the temporary relief of those who have embarked their capital in one branch of industry, by imposing hardships on those whose capital is engaged in promoting the national prosperity, through the means of another branch of industry.

It appears to us, that if the price of cotton goods were at any time reduced so low, from the abundance of the stock in hand, that they were sold at a loss to the manufacturer, it would be a system new and injurious to prohibit on that account certain classes of the community from wearing woollen cloth; yet it is upon this principle that the industry of the farmer, whose exertions are generally acknowledged to be the most beneficial to the community, is now

to be depressed for the purpose of affording an uncertain, and at best a temporary relief, to the West India planter.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

John Howard, Earl of **Suffolk and Berkshire**.

Thomas Douglas, Earl of **Selkirk**.

DVIII.

JUNE 24, 1808.

The Bank of Ireland Bill was read a third time and passed this day. The following protest was inserted.

1st, Because this Act sanctions the prolongation of the Charter of the Bank of Ireland from the year 1816, at which time that Corporation might on notice have been dissolved, to the year 1837; and this confirms the valuable exclusive privileges it enjoys for thirty years, on terms most inadequate and improvident, as must appear from the following short statement:—

‘The agreement on the part of the Bank to manage the public debt of Ireland, free of all charges and expenses, gives to the public a sum amounting nearly to £7,525 per annum; the commission the Bank at present receives on that account.’

But the public have given to the Bank 5 per cent. for the sum of £1,250,000 they might have borrowed at £4 14s. 6d., the interest at which money has been actually raised this year for the Government of Ireland. £3,437 being the difference betwixt £62,500, the interest of £1,250,000 at 5 per cent., and £59,062, the interest of the said sum at £4 14s. 6d. per cent., must therefore be taken from the £7,500 the public have acquired; and it will then appear, that an annuity of £4,088 is the full amount of the pecuniary consideration given for the extension of this valuable privilege.

Further: the duration of this trifling remuneration is no ways guarded by the Act. It may expire within a short time; and the public, whilst the Bank are in full enjoyment of the privileges conferred on them, may be compelled to make a new agreement for the charges of that part of the public debt which may be managed in Ireland; for this Act contains no provisions compelling the Bank of Ireland to manage any part of the public debt after it shall be consolidated with the debt of Great Britain; an event

which, under the seventh Article of the Treaty of Union betwixt Great Britain and Ireland, may take place within a very few years.

2ndly, Because the Act ought, for the credit of the Bank of Ireland, and the security of the people of that country, to have expressed in clear and distinct terms the nature and extent of the privileges it confers.

It is true that it contains a clause limiting the circulation of the Bank of Ireland to the sum of £2,750,000, similar to the clause of the Irish Act of the 37th of the King, chap. 50, which limited the circulation of that Bank to £1,500,000.

But as it appears by documents before Parliament, that this Bank has, notwithstanding the said clause, illegally extended its circulation to a sum upwards of £3,000,000; the Act ought distinctly to have expressed what, in conjunction with the Irish Acts of the 22nd, 31st, and 37th years of his Majesty, it clearly enacts, *videlicet*, 'that if any sum, exceeding the sum of £2,750,000 shall be borrowed or taken up by, or lent or advanced to the Corporation of the Bank of Ireland, under their common seal or otherwise, or for payment of which any bond, bill, note, covenant, agreement, or other writing, shall be made, sealed, or given, then and in such case, all and every the person or persons who shall be a member or members of the said Corporation, his and their respective heirs, executors, or administrators, shall in his and their respective private capacities be chargeable with, and liable in proportion to their several shares and subscriptions to the re-payment of such money which shall be so borrowed, taken up, or lent, with interest for the same, in such manner as if such security had been a security for payment of so much money and interest for the same, sealed by such respective member or members of such Corporation, and delivered by him and them as their respective acts and deeds, in proportion to their several shares and subscriptions as aforesaid.'

3rdly, Because we think it our duty to express the strong sense we feel of the great impropriety of extending the Charter of the Bank of Ireland by Act of Parliament, without in the same Act doing away that doubt which since the passing of an Act in the year 1793 was known to exist, concerning the admissibility of our Roman Catholic fellow subjects to the direction of that Corporation.

We must think that those who pretend to feel such alarm at the idea of granting an extension of privileges to the Roman Catholics of Ireland, were called upon to remove a doubt on which their minds, if they are serious in their professions, must dwell with such anxiety.

Whilst, on the other hand, our anxious desire to see our Roman Catholic fellow subjects enjoy, in every respect, the privileges to which their birthright entitles them, makes us deeply regret that this Act does not in explicit terms declare their eligibility to the situation of Governor and Directors of the Bank of Ireland.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
Thomas Dundas, Lord **Dundas**.

For the last reason.

Henry Richard Fox Vassall, Lord **Holland**.

DIX.

JUNE 30, 1808.

Lord Holland, throughout the course of the Stamp Legacy Duties Bill, strove to get an order that it should be printed. The refusal of Lord Hawkesbury to accede to this request led to opposition at each stage. It was carried on first reading by 28 to 16, assailed on going into Committee, and again on the third reading. It is 48 Geo. III, cap. 149.

The following protest was entered.

1st, Because although, in consequence of this House having negatived the printing of this important Bill for the use of its members, it has been impossible for us to inform ourselves of its contents in the manner our duty as members of Parliament required; yet, from the short explanation given of it in debate, we have learnt enough to discern the singular hardships it enacts, and to condemn the unwarrantable principles of taxation it adopts.

2ndly, Because, although it comes to this House with a title purporting that its provisions are merely calculated to alter the mode of collecting the Stamp Duties within this Kingdom, it abandons the principle of a Stamp Tax, and assumes that of a tax *ad valorem* upon certain descriptions of property, becoming in effect a partial and unjustifiable tax on property.

It subjects the owner of a landed estate, value £10,000, which may be previously mortgaged for £8,000, on which mortgage the

proprietor has paid the *ad valorem* duty, to the same amount of tax, on the conveyance of that estate as it does the proprietor of an estate value £10,000, where there is no mortgage; thus making the duty imposed on a distressed man, who has only an interest value of £2,000 in his estate, equal to that which is to be paid by a person, probably in opulent circumstances, who has an interest value £10,000, in the estate he means to convey.

3rdly, Because, in contradiction to the arguments urged in justification of the Bill, the *ad valorem* duties upon deeds for the securing annuities and the conveyance of land are not proportioned in a just measure upon the property which they affect; but are calculated to bear in a much heavier degree upon small annuities than upon large ones, being to the amount of more than £10 per cent. upon the grant of an annuity not exceeding £10 per annum, and only £1 per cent. upon an annuity of £2,000 per annum; and the rates do not increase upon the grant of annuities beyond that sum, nor upon the conveyance of a landed estate of a higher value than £50,000, thereby unjustly favouring the rich, to the great disadvantage of the poorer proprietor.

4thly, Because, although this Bill recites an Article of the Union betwixt Scotland and England, relative to Stamp Duties, and thus displays a pretended anxiety to preserve an agreement which ought to be held sacred, it in effect violates the most essential immunity secured to the people of Scotland by that Treaty.

So far from preserving the proportion stipulated in favour of the land in Scotland, with respect to all duties to be paid on landed property, it equalizes in every respect the *ad valorem* duties with those imposed in England; nay, in effect, the tax imposed will be found to fall with accumulated force on that country, as the conveyance from one person to another of securities in land are much more frequent, from the circumstance that the courts in Scotland never interfere in the manner in which the Court of Chancery does in England, to prohibit the borrower against the immediate payment of money vested in landed security.

5thly, Because this Bill imposes penalties of the most severe nature, in certain cases, on attornies, solicitors, and writers to the signet, as well as on stewards of copyhold manors, with a view to enforce the collection of the duties it imposes; thus, in an unprecedented manner, making tax-gatherers of men who are not in the

employment of Government, and converting them into spies on the conduct of those by whom they are confidentially entrusted.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

Henry Richard Fox Vassall, Lord **Holland**.

James St. Clair Erskine, Earl of **Rosslyn**.

DX.

JUNE 30, 1808.

The Legislature had prohibited the use of Grain for purposes of distillation. It therefore passed an Act, the last of the Session (48 George III, cap. 152), to encourage or facilitate the distillation of spirits from sugar. The Bill led to the following protest.

1st, Because this Bill, being introduced for the avowed object of encouraging the distillation of Sugar in preference to that of Grain, must be considered as a part of the same measure, and liable to the same general objections as the Bill for prohibiting the distillation of spirits from Grain; and though we should willingly concur in affording relief to the West India proprietors, in any mode which is not inconsistent with justice to other classes of our fellow-subjects, yet we cannot for that purpose consent to sacrifice essential objects of national policy and principles that are paramount to the separate interests of any class of men.

2ndly, Because it appears to us, that the use of Grain for distillation, and for other purposes of superfluous consumption, which may be suspended in times of scarcity, afford the farmer the prospect of a steady market for a superabundant produce, encourage him to extend his cultivation, and are thereby of inestimable value to the public at large¹; as the nation can have no assurance of escaping the horrors of famine in unfavourable seasons, unless the produce of the land be so ample as to occasion a superabundance in years of ordinary plenty.

3rdly, Because it appears to us, that in a state of free competition a scanty supply of any article must always have the effect of raising its price, and that the use of Grain for distillation will thus be checked in times of scarcity by natural causes; that the interference of the Legislature is therefore unnecessary, as well as

¹ An ungrammatical expression and a repetition, obviously the result of carelessness, have been corrected in this sentence.

dangerous; or if there be occasions when it may be justifiable, it can only be under circumstances of extreme and incontestible urgency; that such interference, when resorted to on light and insufficient grounds, must undermine the confidence of the farmer in the steadiness of his market, must thereby discourage the future production of Grain, and will thus have a direct tendency to produce the very same evils which it is intended to relieve.

4thly, Because if a case of urgency had actually occurred, still it does not appear that it would have called for such measures as are now connected with the prohibition and distillation from Grain. If that prohibition were simple and absolute, we might feel a confidence that it could only have been resorted to from a strong conviction of its necessity; but when it is to be accompanied by the compulsory introduction of a substitute, we are sensible that motives of personal interest must operate to recommend the measure. Independently of any consideration arising from a scarcity of Grain, we feel the greatest apprehension that the influence of this bias may promote a frequent and unnecessary repetition of similar expedients, subverting that steady policy which is essential for the protection of agriculture, and leading to consequences peculiarly pernicious at the present moment, when it is obviously and indispensably necessary to encourage such an ample production of the means of subsistence as may render this country independent of any foreign supply.

Thomas Douglas, Earl of Selkirk.

Henry Addington, Viscount, Sidmouth.

D XI.

JUNE 30, 1808.

The College of St. Patrick, at Maynooth (founded in 1796), was supported by an annual grant contained in the Appropriation Act. In the present year the grant was only £9,250, which it appears was a diminution of £3,750 on the grant of the previous year. The subjoined protest explains itself.

1st, Because by the introduction of a provision in this Bill granting to the Roman Catholic Seminary at Maynooth the sum of £9,250, being a reduction of £3,750 from the grant made in the last Session of Parliament, this House is thereby fettered in its judgment and precluded from the free exercise of its discretion in

deciding upon the propriety of such a reduction on its own exclusive merits.

2ndly, Because, in our opinion, the policy which suggested the establishment of the Royal College of Maynooth ought equally to operate in affording a liberal support to an institution of such manifest advantage to the Roman Catholic population of Ireland.

3rdly, Because we have reason to believe, that the restricted sum of £9,250 is insufficient to the object of educating the number of students adequate to the exigencies of the Roman Catholic ministry in Ireland, the necessary and immediate consequence of which must be a recourse to foreign seminaries to supply the deficiency ; and the evils likely to result from such a necessity, when almost the whole of the Continent of Europe is either directly or indirectly under the control and dominion of the enemy, cannot be too strongly guarded against.

4thly, Because it is peculiarly incumbent on us when the two Houses of Parliament have so recently thought fit to refuse to take into their consideration the restrictions and disabilities under which the Roman Catholics of Ireland unfortunately labour, to endeavour, by all the means within our power, to improve the condition of this numerous and loyal class of his Majesty's subjects, to excite among their lower orders an attachment to the Constitution, and a just regard for the laws of the country ; to strengthen the bonds of affection and charity by which we ought all to be united ; and to afford the best and most extensive means of enlightening, by moral and religious instruction, our Christian brethren of the Roman Catholic communion ; all which objects may be materially obstructed by the reduction of the grant to this useful and laudable establishment ; a measure in our opinion impolitic and unwise, if it arises from a narrow spirit of economy, and which cannot be too loudly censured and condemned, if it proceeds from an intolerant feeling of bigotry.

John Russell, Duke of Bedford.

James Thomas St. Clair Erskine, Earl of Rosslyn.

Francis Rawdon, Lord Rawdon (Earl of Moira).

Thomas Dundas, Lord Dundas.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

Thomas Douglas, Earl of Selkirk.

Henry Richard Fox Vassall, Lord Holland.

John Ponsonby, Lord Ponsonby of Imokilly.

DXII.

JANUARY 23, 1809.

The Lords, on this day, voted the thanks of the House to Sir Arthur Wellesley, for the victory of Vimiera, gained on the 21st of August, 1808. It was moved by Lord Hastings at the same time to postpone the debate, in order to give the thanks of the House to Sir Harry Burrard, commanding the forces at Vimiera. The motion was rejected, and the following protest entered.

Because it has been established by evidence in a public court that Lieutenant-General Sir Harry Burrard was in the field throughout the whole action of Vimiera, exercising command, and no officer has the power of disqualifying himself, or of divesting himself of the trust reposed in him by his Sovereign. On this account I cannot agree to leave out the name of Lieutenant-General Sir Harry Burrard. No neglect or misconduct having been imputed to him, from the thanks of this House to those who achieved the glorious victory of Vimiera.

Francis Rawdon, Lord Hastings and Rawdon (Earl of Moira).
James St. Clair Erskine, Earl of Rosslyn.

DXIII.

MAY 2, 1809.

Lord Auckland, who had on several occasions before striven to inflict penalties on those persons who had been proved guilty of adultery, and from whom a divorce had been sought by Act of Parliament, brought forward a motion, that a Standing Order of the House should be made, disabling the person, on account of whose conduct the divorce was granted, from intermarrying with the person who had seduced her. On three previous occasions, in 1770, 1779, and in 1800, a Bill, enacting such a rule, had passed the Lords, but had failed in the Commons. In the following protest the two Lords have marked the personal pronouns with asterisks, but it is not easy to say to which of the two the several opinions belong.

1st, Because the resolution which has been moved this day, with respect to Divorce Bills, appears to me* founded merely on a speculation that some good may be produced by it, when no reasonable hope of success has been held out from the example of any country where this has been tried; and it appears to me*, that instead of

diminishing the evil complained of, the utmost that can be expected from it is, that it may tend to conceal adultery.

2ndly, Because I* consider it to be unwise in this House to arrogate to itself the sole right of legislating on this question, and not to allow the other House of Parliament the power of deliberating upon so material an alteration in the laws of England.

3rdly, Because the right of making a Standing Order upon a public question on which great diversity of opinion prevails, should be exercised with great caution, and must excite jealousy in the other branch of the Legislature.

Frederic Ponsonby, Lord Ponsonby* (Earl of Bessborough).
Frederic Augustus Berkeley, Earl Berkeley*.

DXIV.

JUNE 7, 1809.

The financial system of Pitt and his successors was, according to their own statements, one in which War Taxes and Loans were made the source of income in certain proportions. In the year 1809, however, the Government, with a view to giving the public creditor a more valid security for his interest, charged the interest of the Loans on the War Taxes. The policy was opposed by Lords Sidmouth and Grenville, but the Loan Interest Bill was carried without a division.

It led to the following protest.

1st, Because this Bill purports to provide for the supply of the present year, by making perpetual one million annually of the War Taxes.

2ndly, Because this new and dangerous measure has been introduced into this House at a period of the Session, when it cannot possibly receive that consideration and attention, with which it ought to be examined by every branch of the Legislature of our country.

3rdly, Because no information has been laid before us, to justify the enormous increase of the public expenditure during the last two years; and the consequent necessity of large and continually increasing Loans.

4thly, Because the present measure is subversive of the principles on which the Sinking Funds and War Taxes have been successively established and augmented; principles invariably adhered to under every change of men or measures during the last three-and-twenty years, and now first abandoned.

5thly, Because the system, of which this measure is, we fear, the commencement, will rapidly absorb all the extraordinary resources provided by the wisdom of Parliament to meet the exigencies of the war, and will within a very few years plunge this country into financial difficulties, such as have never yet been apprehended, even by those who have thought most unfavourably of the resources of the country.

6thly, Because we consider this Bill not only as a most improvident and injurious financial measure, but also as founded on political views peculiarly inapplicable to our present situation.

Engaged in a long and arduous struggle, we are now adopting a policy which, in the same instant, diminishes our income, and enormously increases our expenditure. We are shifting off the difficulties of the moment, by applying to them the resources provided for permanent security; but we are insuring the speedy recurrence of the same difficulties with accumulated weight, and under circumstances of increased embarrassment.

We are doing this at a time when wisdom and justice equally require a more economical and provident policy, which, while it sacrificed no real prospect of advantage, and refused itself to no well-founded claim for assistance, should look with a much more zealous anxiety to the present interests and ultimate security of our own country; and establish, instead of delusive, temporary, and ruinous expedients, a solid basis of permanent resources, the only fit provision for a contest of indefinite duration, and in the issue of which our existence is involved.

Henry Addington, Viscount Sidmouth.

James St. Clair Erskine, Earl of Rosalyn.

William Wyndham Grenville, Lord Grenville.

Robert Smith, Lord Carrington.

Charles Anderson Pelham, Lord Yarborough.

DXV.

JUNE 13, 1809.

A Bill was brought on the 25th of May, from the House of Commons, entitled, 'An Act for the further Prevention of the Sale and Brokerage of Offices.' It was read a second time on the 30th of May, passed through committee, and amended on the 8th of June, and read a third time on the 13th of June. The Act is 49 George III, cap. 126. The protest sub-

joined refers to the sale of commissions in the army, which was exempted from the Act.

Because I cannot admit the principle, in any instance, of a traffic in offices.

Robert Grosvenor, Earl Grosvenor.

DXVI.

JUNE 15, 1809.

Mr. Curwen's Reform Bill was an Act to prevent corrupt practices in parliamentary elections, by inflicting penalties on those who offered and received bribes. It was accepted with certain modifications by the Government, the effect of these changes, according to Lords Grosvenor and Sidmouth, being to prohibit corruption in the subject and leave it free for the Crown. Nine Lords therefore opposed the Bill as a delusion, but the motion for a committee was carried by a majority (twenty-three). The Act is 49 George III, cap. 118.

The following protest was entered.

Because the Bill is delusive, inasmuch as, though it professes to prevent the sale of seats directly or indirectly for money, yet does not impose with equal caution or earnestness any difficulty in procuring them by barter of the patronage of the Crown; and because, under such inadequate provisions, that practice may still exist in a manner more derogatory from the character of the Legislature, and more prejudicial to the welfare of the country.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

James St. Clair Erskine, Earl of Rosslyn.

Alexander Hamilton, Lord Dutton.

Thomas Douglas, Earl of Selkirk.

Charles Anderson Pelham, Lord Yarborough.

Robert Grosvenor, Earl Grosvenor.

William Henry Vane, Earl of Darlington.

Edward Southwell Clifford, Lord De Clifford.

Jacob Pleydell Bouverie, Earl of Radnor.

DXVII.

JANUARY 26, 1810.

The thanks of the Lords were voted to Lord Viscount Wellington for his services on the 27th and 28th of July, 1809, at the victory of Talavera. The title of Viscount Wellington of Talavera was conferred on

the 4th of September, 1809. The motion was made by Lord Liverpool and opposed by Lords Suffolk, Grosvenor, and Grey.

The following protest was inserted.

1st, Because in the battle of Talavera, though eminently distinguished by those splendid proofs of discipline and valour which his Majesty's troops have never failed to display, we cannot recognize those unequivocal characteristics of victory which can alone form an adequate title to the thanks of this House. On the contrary, that the British army appears to have been providently led into a situation, in which the repulse of the enemy, effected with a great loss, produced neither security from a subsequent attack, nor relief from the distress under which our brave troops were suffering, and was immediately followed by the necessity of a precipitate retreat, whereby our wounded were left to fall into the hands of the enemy.

2ndly, Because, by voting the thanks of this House on such an occasion, we diminish the value of the most honourable reward we have it in our power to confer, whilst we indirectly sanction the propriety of that elevation to the honours of the peerage, with which his Majesty, without enquiry, was advised to mark his approbation of the commander of his army in Spain, at a time when his ministers were informed of the unfortunate consequences which might be expected to follow, and in fact did follow, that dear-bought success.

Charles Grey, Earl Grey.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DXVIII, DXIX.

MARCH 9, 1810.

The Corn Distillery Prohibition Bill of the last Session was continued in the present, and for the same reasons as were previously alleged. The two following protests were entered.

1st, Because we are desirous of distinctly expressing the strongest disapprobation of the indecent and unjustifiable manner in which the proceedings on this Bill have been conducted:—Read a second time upon the first sitting day after it was brought from the Commons, before any of the papers called for by the House, as necessary to enable them to judge of the expediency of the measure, could be laid on the table; it is now sanctioned by a third

reading, before the production of much of that information which had been called for as indispensable, under the extraordinary circumstances of this House having rejected the prayer of some of the petitioners, for leave to state at the Bar the unparalleled grievances which they must sustain, and of its having refused to benefit by the information they might have derived from the judges on a question material to their decision, on which the highest authorities differed.

To us it appears that this course, highly irregular and reprehensible even in measures of the slightest moment, when adopted in cases like the present, where the greatest national interests are involved, must bring the House of Lords into contempt, by impressing the public mind with a belief, that we are assembled here merely to register those edicts which the Executive Government may choose to recommend.

2ndly, Because the House of Lords having hitherto abstained from all enquiry on the important subject of the propriety of stopping the distillation of grain, we are compelled, in estimating the merits of the Bill, to resort to the details and opinions contained in the reports communicated by the Commons' House of Parliament. And it does appear to us incomprehensible, how the propriety of enacting it into a law can be maintained on the authority of reports, wherein the committee have expressly declared, that nothing in the evidence before them could induce them to recommend a permanent prohibition of distillation of grain, which would be attended with great evils to the agriculture of the country; evils, that are in that report emphatically stated, as only to be exceeded by the effects of the repetition of the measure, which is now sanctioned for the third time by this Bill.

3rdly, Because, whether we contemplate the interest of the agriculturist; or that of the West India planter, oppressed with an overgrowth of sugars, occasioned by a fictitious demand; or even the great and important object of securing, at all times, an abundance of food for the people of this country; we are alike called upon to reprobate the short-sighted policy on which the continued repetition of this measure is recommended.

To the British farmer this prohibition must be highly detrimental, by diminishing the growth of barley, on the cultivation of which our improved system of agriculture mainly depends.

To the West India planter it is still more injurious: by the temporary premium it affords, it flatters the hopes of those whose estates can only grow sugar with a profit when the price of the commodity is artificially sustained; and this induces them to persevere in a trade injurious to themselves, and destructive of the interests of their fellow planters, whose estates are only prevented from producing an adequate profit by these ruinous speculations, which this measure is calculated to prolong.

But, above all, we must regard this Bill as fatal to the interests of the poorer order of the people of this country, who rely on grain for their sustenance. If the production of all commodities naturally and inevitably suit itself to the demand, the quantity of grain grown must, by enacting into a law, be diminished, and stopping the distilleries can no longer be resorted to as a salutary palliative for the evils of an unproductive season. Thus a year of scarcity may be turned into a year of famine; and the people may, by this improvident measure, be exposed to that extreme want, from which they have been long protected by the more prudent policy that till of late has been pursued.

Archibald Kennedy, Lord **Ailsa** (Earl of Cassilis).

Philip Yorke, Earl of **Hardwicke**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

George Keith Elphinstone, Lord **Keith**.

William Wyndham Grenville, Lord **Grenville**.

William Charles Keppel, Earl of **Albemarle**.

Alexander Hamilton, Lord **Dutton**.

George Capel, Earl of **Essex**.

St. Andrew St. John, Lord **St. John of Bletsoe**.

Henry Fitzmaurice Petty, Marquis of **Lansdowne**.

James St. Clair Erskine, Earl of **Rosslyn**.

For the second and third reasons assigned in the above protest; and because in Bills of this nature, the evils which it may be possible to foresee at the period of their enactment, form but a part of those which it is reasonable to apprehend will flow from their adoption; and although, in every measure calculated to act for the relief of existing distress, it is necessary to have due regard to the preservation of other interests, which may be injured by its operation, it becomes us to be doubly cautious in adopting an expedient, by which the agricultural interests of the country will be materially affected. These interests, of a nature so com-

plicated, and of such vital importance, can never with prudence be made the subject of legislative interference but under the pressure of an obvious and indispensable necessity, of which, at the present time, there is no reason to credit the existence.

George Gordon, Earl of **Aberdeen**.

DXX.

MARCH 22, 1810.

Lord Holland charged the ministry with neglecting to secure an exchange of prisoners with the French Government, and cited evidence which appeared to justify his charges. He therefore moved for correspondence on the subject. This was refused by Lord Liverpool, several Peers protesting by their names only, and the following protest was inserted.

1st, Because the long period of time which has elapsed since the commencement of hostilities, without the establishment of a cartel for the exchange of prisoners between Great Britain and France, has been a cruel aggravation of the calamities of war, and is a disgrace to the age in which we live.

2ndly, Because it has been repeatedly asserted in French publications, and is distinctly stated in a paper published by the authority of the French Government, and purporting to be a despatch from the Duke of Cadore to Baron Rowell, Minister of Foreign Affairs in Holland, bearing date the 24th of January, 1810, that the failure of proposals for appointing commissioners to treat for a general exchange of prisoners at Morlaix, was to be attributed to his Majesty's ministers; and such assertions and statements have remained to this day uncontradicted.

3rdly, Because a charge of inhumanity, so solemnly and publicly preferred, seemed to us to call for an early and satisfactory refutation, if false; for the strict and severe punishment of his Majesty's ministers, if true; and whether for the purpose of vindicating our character as a nation from the foul aspersions of our enemy, or of convicting those who, by their counsels or neglect of duty, have exposed us to them, the production of the information prayed for in the address appeared to be proper, seasonable, and necessary.

Henry Richard Fox Vassall, Lord **Holland**.

Charles Grey, Earl Grey.
 James Maitland, Lord Lauderdale (Earl of Lauderdale).
 George John Spencer, Earl Spencer.
 Edward Smith Stanley, Earl of Derby.
 Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).
 William Charles Keppel, Earl of Albemarle.
 Richard Bingham, Earl of Lucan.
 Robert Smith, Lord Carrington.
 Archibald Kennedy, Lord Ailsa (Earl of Cassilis).
 Peter Leopold Louis Francis Cowper, Earl Cowper.
 John Bligh, Lord Clifton (Earl of Darnley).
 Richard Hely Hutchinson, Earl of Donoughmore.
 Peter King, Lord King.
 James St. Clair Erskine, Earl of Rosslyn.
 George Granville Leveson Gower, Marquis of Stafford.
 Arthur Blundell Sandys Trumbull Hill, Earl of Hillsborough
 (Marquis of Downshire).
 John Ponsonby, Lord Ponsonby of Imokilly.
 Henry Fitzmaurice Petty, Marquis of Lansdowne.

DXXI.

MARCH 22, 1810.

The opposition next moved, 'that an address be presented asking for dates of any communication from the French Government relative to an exchange of prisoners since the 1st of September, 1809.' During the debate, the ministers making no reply, Lord Derby alluded to 'the gentlemen below the bar,' and the House was cleared. The following protest was inserted.

1st, Because the only arguments which in the previous debate had been urged against the production of all correspondence between the agents of the French Government, and the transport board, respecting an exchange of prisoners, could not apply to an address for the communication of the dates of such correspondence.

The possible inconveniences resulting from a disclosure of particular topics in discussion, and the apprehension of disturbing by such disclosure the progress of a negotiation stated to be yet pending, appeared to have influenced the House in their decision on the former occasion; but a motion for the communication of dates, if acceded to, would have led to no disclosure of particulars, nor by any possibility have interrupted the progress of any negotiations.

2ndly, Because the production of the dates of the correspondence

referred to might have been sufficient to vindicate his Majesty's Government from the odious imputation of neglect, by affording proof that the failure of a plan for establishing a cartel had arisen from no delay in answering the proposals of the French Government on the subject.

3rdly, Because his Majesty's ministers, having resisted the production of the dates of the several papers and communications referred to, were called upon in the course of debate to disclaim any delay in answering the proposals of the French Government; and they distinctly refused to make any declaration that no such delay had occurred.

4thly, Because his Majesty's ministers, called upon in the course of debate, to pledge themselves to the future production of the correspondence or dates thereof, whenever the negotiation stated by them to be pending should be finally closed, gave no such pledge, and returned no answer whatever to the question so pointedly addressed to them.

William Frederic, Duke of Gloucester.

Edward Smith Stanley, Earl of Derby.

Henry Richard Fox Vassall, Lord Holland.

William Charles Keppel, Earl of Albemarle.

Charles Grey, Earl Grey.

Henry Fitzmaurice Petty, Marquis of Lansdowne.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

Richard Bingham, Earl of Lucan.

George John Spencer, Earl Spencer.

Robert Smith, Lord Carrington.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).

Archibald Kennedy, Lord Ailsa (Earl of Cassilis).

Peter Leopold Louis Francis Cowper, Earl Cowper.

Arthur Blundell Sandys Trumbull Hill, Earl of Hillsborough
(Marquis of Downshire).

James St. Clair Erskine, Earl of Rosslyn.

John Bligh, Lord Clifton (Earl of Darnley).

George Granville Leveson Gower, Marquis of Stafford.

Richard Hely Hutchinson, Earl of Donoughmore.

John Ponsonby, Lord Ponsonby of Imokilly.

Peter King, Lord King.

DXXII.

MARCH 22, 1810.

The opposition next proposed the appointment of a secret committee

to enquire into the facts. This was refused, and the following protest was entered.

1st, Because the appointment of a secret committee was the only remaining mode of proceeding, was not liable to the objections urged against former motions on the subject, was consonant to the usage of Parliament, and was expressly sanctioned by a recent precedent directly in point.

A committee having been appointed by the House of Commons in 1798, examined and considered the treatment of French prisoners in this country, the causes that had led to the suspension of a cartel, and the negotiations which had taken place between the two Governments upon the subject, they reported their opinion thereupon, and at the instance of the House of Commons their report was communicated to all States in amity with Great Britain, for the purpose of giving a public and solemn refutation of the calumnies industriously circulated in the publications of the enemy.

2ndly, Because the rejection of the only remaining mode of proceeding seemed to us to imply a determination to resist all investigation of a transaction in which the character of the country and the interests of humanity were deeply involved, and as we could not disguise from ourselves the impression which must be produced on the public, and on Europe, by the silence of ministers, and the decision of the House, we were anxious to record this our solemn protest, against the rejection of all enquiry into the truth of a charge, which those implicated in it have neither attempted to refute by evidence or argument, nor ventured to repel by a distinct and simple contradiction of the allegations on which it is founded.

William Frederic, Duke of Gloucester.

Henry Richard Fox Vassall, Lord Holland.

Peter Leopold Louis Francis Cowper, Earl Cowper.

Charles Grey, Earl Grey.

John Bligh, Lord Clifton (Earl of Darnley).

James Maitland, Lord Lauderdale (Earl of Lauderdale).

Richard Hely Hutchinson, Earl of Donoughmore.

George John Spencer, Earl Spencer.

Peter King, Lord King.

Edward Smith Stanley, Earl of Derby.

Henry Fitzmaurice Petty, Marquis of Lansdowne.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).

James St. Clair Erskine, Earl of **Rosalyn**.
 William Charles Keppel, Earl of **Albemarle**.
 George Granville Leveson Gower, Marquis of **Stafford**.
 Richard Bingham, Earl of **Lucan**.
 Arthur Blundell Sandys Trumbull Hill, Earl of **Hillsborough**
 (Marquis of Downshire).
 Robert Smith, Lord **Carrington**.
 John Ponsonby, Lord **Ponsonby** of **Imokilly**.
 Archibald Kennedy, Lord **Ailsa** (Earl of Cassilis).
 Edward Adolphus Seymour, Duke of **Somerset**.

DXXIII.

JUNE 16, 1810.

The Government in this year introduced a Bill allowing the Crown to raise a sum of money amounting to £1,500,000 by means of Exchequer Bills, for the purpose of making a loan to the East India Company. The Act was opposed in the Commons, but passed by 52 to 10 on the 14th of June. It was resisted in the Lords by Lord Lauderdale, who objected that no assistance should be given to the Company as long as they made their dividend of 10½ per cent. He was supported by Lord Holland, but the Bill was passed without a division.

The following protest was entered.

1st, Because to us it appears, that before passing this Bill into a law, the opinion of the Judges on the legality of the East India Company's declaring a dividend in the present state of their affairs is highly desirable; for whilst we know, from the accounts on the table of the House, that they have continued to divide annually 10½ per cent. on their capital stock, we are convinced that the House of Commons would not have abandoned the wise and prudent system they had formerly pursued, when, in chap. 64 of the thirteenth of George III, they limited the dividend on the Company's stock to 6 per cent. till the sum £1,400,000, advanced to relieve them from difficulties similar to those they now experience, was repaid; had they not thought it unnecessary, seeing that in their opinion the East India Company are, in the present situation of their affairs, by law precluded from assigning to the proprietors any dividend on their capital stock.

2ndly, Because the doubts that must naturally arise on the right of the Company to declare a dividend, from the difference of opinion thus disclosed to us by the conduct of the East India Company, and by the provisions of the Bill sent up by the Commons, are greatly increased by the following considerations :

1. The accounts of stock per computation on the table of this House, 1st of March, 1806, 1st of March, 1807, 1st of March, 1808, and 1st of March, 1809, far from showing any profit after the payment of Bills of Exchange accepted, and of debts, interest, and other outgoings, exhibit in that short space of time a loss to the enormous amount of £12,571,025; whilst by the 111th clause of the 33rd George III, chap. 52, the Company have only a right to declare a dividend 'out of their profits in Great Britain, after providing for payment of Bills of Exchange already accepted by the Company as the same shall become due, and for the current payment of other debts, interest, and other outgoings, charges, and expenses.

2. Both the East India Company and the Legislature seem to have formerly given a most decided opinion on this subject; for when by the 21st of George III, chap. 65, the Company were, as at present, precluded from dividing the sum then permitted by law of 8 per cent. on their capital stock, till they had provided for the current payment of interest, outgoings, and other expenses, they, in the year after the passing of that Act, petitioned to be empowered by law to divide the said sum of £8 per cent. per annum, notwithstanding that their net profit fell short of what was necessary to discharge such a dividend by £22,023, and Parliament actually gave such powers in 22 George III, chap. 51.

3. Because under these circumstances, whatever may be the opinion of the Judges concerning the right of the Company to declare a dividend, it seems to us imperiously necessary for the public interest that the House should be in possession of it; for if the Judges should pronounce it to be illegal for the Company to declare any dividend in the present situation of their affairs, the authority of such an opinion would prevent a large portion of the sum about to be lent from being illegally transferred into the pockets of the proprietors of India Stock; and if, on the contrary, the Judges should declare that such a dividend was legal, it would certainly suggest to the House the propriety of following the wise example the Legislature has heretofore given, by introducing a clause into the Bill now before them, for diminishing the dividend to be made to the proprietors till such time as the money advanced should be repaid to the public.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DXXIV.

DECEMBER 28, 1810.

Parliament would not have sat till the ordinary time after Christmas, had not the King's mind given way, so that he was unable to sign a commission for a further prorogation. In consequence, Parliament met on the 1st of November, and instantly prorogued itself, meeting for dispatch of business on the 29th of November. Its first function was to enquire into the nature and probable duration of the King's illness, its next business was to provide for the Regency. The debates on the whole subject will be found in Hansard, vol. xviii. The Government dealt with the matter both in the Lords and the Commons by three resolutions. The first affirmed the fact of the King's indisposition, and the inability which it had induced on him of performing his public functions. The second, that it was the right and duty of the Houses to provide the means for supplying the defect which had arisen, and the third, that the Houses should define the means by which the King's authority and power should be supplemented in the assent given to Bills. The first resolution was a mere matter of fact, and was at once agreed to. The second was objected to, but was carried without a division. On this the following protest was inserted.

1st, Because it is always unwise, and often unsafe, to assert abstract principles on the truth of which the proceeding proposed to be adopted does not exclusively rest; and on the present occasion it seems peculiarly unnecessary to exact a compliance with speculative and questionable premises, to establish a conclusion in which all seem practically to concur.

Those who have regarded the Prince as having a right to assume the royal functions on the declared incapacity of his father, have always held that the exercise of that right could not be called into activity otherwise than by the adjudication of the estates of the realm.

Those who have maintained a right in the two Houses, have admitted the expediency of conferring the appointment on His Royal Highness the Prince of Wales.

Finally, those who deny any positive legal right either in the Prince to assume, or the estates to confer the exercise of the royal authority, do nevertheless approve of the estates offering and of the Prince accepting the office of Regent on the present melancholy occasion.

To select therefore topics of disagreement among men who are disposed to concur in the practical conclusion of supplying the

defect in the exercise of the royal functions by a Regent in the person of His Royal Highness the Prince of Wales, seemed to us repugnant to the maxims of prudence, and directly at variance with those examples of moderation and temper which at remoter periods of our history, as well as at the glorious Revolution of 1688, had been held out to us by the conciliatory policy and wisdom of our ancestors.

2ndly, Because the agitation of the question was calculated to produce delay, and delay in supplying the means of exercising the royal authority must either be injurious to the public service or subversive of the Constitution of this Kingdom; for the functions of the Executive Government cannot be discontinued during a period of extensive war and great national embarrassment, without injury to the public welfare; and the duties of the kingly office cannot on the other hand be discharged by those who usurp the royal authority unsanctioned by the laws, the consent of the Estates, or the knowledge of their Sovereign, without imminent danger to the Constitution of the country.

Ernest Augustus, Duke of **Cumberland**.

William Henry, Duke of **Clarence**.

Henry Richard Fox Vassall, Lord **Holland**.

Edward, Duke of **Kent**.

George Child Villiers, Earl of **Jersey**.

Augustus Frederic, Duke of **Sussex**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

William Frederic, Duke of **Gloucester**.

Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

Francis William Caulfield, Earl of **Charlemont**.

John Russell, Duke of **Bedford**.

George Forbes, Lord **Granard** (Earl of Granard).

William Charles Keppel, Earl of **Albemarle**.

Charles Anderson Pelham, Lord **Yarborough**.

George Keith Elphinstone, Lord **Keith**.

Thomas Erskine, Lord **Erskine**.

John Fitzpatrick, Lord **Upper Ossory** (Earl of Upper Ossory).

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

Francis Rawdon, Lord **Hastings and Rawdon** (Earl of Moira).

Henry Devereux, Viscount **Hereford**.

Thomas Dundas, Lord **Dundas**.

Sackville Tufton, Earl of **Thanet**.

Archibald Kennedy, Lord **Ailsa** (Earl of Cassilis).

Richard Hely Hutchinson, Earl of **Donoughmore**.

George John Spencer, Earl **Spencer**.

Gregory William Twisleton, Lord **Say and Sele**.

Charles Howard, Duke of Norfolk (Earl Marshal).
 Alexander Hamilton, Lord Dutton.
 James St. Clair Erskine, Earl of Rosslyn.
 Edward Adolphus Seymour, Duke of Somerset.
 William Norton, Lord Grantley.
 John Hely Hutchinson, Lord Hutchinson.
 George James Cholmondeley, Earl Cholmondeley.
 Richard Lumley Sanderson, Earl of Scarborough.
 John Howard, Earl of Suffolk and Berkshire.
 Frederic Howard, Earl of Carlisle.
 George Granville Leveson Gower, Marquis of Stafford.

DXXV, DXXVI.

DECEMBER 28, 1810.

When the third resolution was read, Lord Holland moved (as he had on the previous day, when his motion was negatived by 100 to 74) that the Prince of Wales be requested to exercise the power and authority of the Crown, and that he should by the opinion and advice of the Lords, abstain from the exercise of any other power than that which immediate exigencies required, and till a Bill should pass both Houses dealing with the emergency. This motion was also negatived, and the following protests entered.

1st. Because no objection has been urged to the amendment which does not in greater force apply to the original resolution, and to every method that can be devised for supplying the defect of the personal exercise of the royal authority in the present emergency.

2ndly, Because an address, such as is proposed in the Amendment, is conformable to the practice of our ancestors at the glorious æra of the Revolution, who, before they declared the Throne to be vacant, requested the Prince of Orange by address to continue to administer the government of the country, and, after declaring the vacancy of the Throne, did by declaration proceed to an immediate revival of the royal authority.

3rdly, Because an address to His Royal Highness the Prince of Wales is the most plain, direct, and above all, expeditious method of supplying the defect in the exercise of the royal authority, and is free from all appearance of fraud, as well as the assumption of powers not vested by the Law and Constitution of our country in the two Houses of Parliament.

4thly, Because, though we have heard it argued in debate, that the mode as proposed, of proceeding by Bill, afforded stronger

security for the concurrence of His Royal Highness the Prince of Wales, in such measures as the wisdom of the two Houses may recommend for the care of his Majesty's person, and for the regulation of the Regent's authority, we have hitherto learnt from no one that there existed any circumstance in the station or character of His Royal Highness the Prince of Wales, which could suggest the propriety of desiring stronger security than our ancestors exacted from the Prince of Orange, for his concurrence in such laws as they deemed necessary for the maintenance and safety of the liberties of the people.

5thly, Because, if we were capable of entertaining the unfounded suspicion that His Royal Highness the Prince of Wales had an inclination to withhold his assent to such measures as the two Houses of Parliament were disposed to suggest for the security of his Majesty's person, or for the regulation of the Regent's authority, we should be of opinion that his Royal Highness accepting the power of conducting the Government, in consequence of an address in which such regulations are stated, would afford better security than an Act of Parliament, which, if passed in the manner proposed, must at least appear to us of doubtful effect, after the Legislature has declared the Act enacting the attainder of the Duke of Norfolk to be void and null, the commission under which it was passed not having been signed by his Majesty's hand, or having the usual words indicating the Royal Assent.

William Henry, Duke of **Clarence**.

Henry Richard Fox Vassall, Lord **Holland**.

Edward, Duke of **Kent**.

George Child Villiers, Earl of **Jersey**.

Augustus Frederic, Duke of **Sussex**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

William Frederic, Duke of **Gloucester**.

Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

Frederic, Duke of **York**.

John Russell, Duke of **Bedford**.

Ernest Augustus, Duke of **Cumberland**.

William Charles Keppel, Earl of **Albemarle**.

Adolphus Frederic, Duke of **Cambridge**.

George Keith Elphinstone, Lord **Keith**.

Charles Howard, Duke of **Norfolk** (Earl Marshal).

John Fitzpatrick, Lord **Upper Ossory** (Earl of Upper Ossory).

Sackville Tufton, Earl of **Thanet**.

Francis Rawdon, Lord **Hastings and Rawdon** (Earl of Moira).

Alexander Hamilton, Lord **Dutton**.
Thomas Dundas, Lord **Dundas**.
John Bligh, Lord **Clifton** (Earl of Darnley)
Archibald Kennedy, Lord **Ailsa** (Earl of Cassilis).
William Norton, Lord **Grantley**.
Francis William Caulfield, Earl of **Charlemont**.
George James Cholmondeley, Earl **Cholmondeley**.
George Forbes, Lord **Granard** (Earl of Granard).
Richard Lumley Sanderson, Earl of **Scarborough**.
Charles Anderson Pelham, Lord **Yarborough**.
John Howard, Earl of **Suffolk and Berkshire**.
Thomas Tylour, Marquis of **Headfort**.
Frederic Howard, Earl of **Carlisle**.
Walter Butler, Lord **Butler** (Marquis of Ormonde).
George Granville Leveson Gower, Marquis of **Stafford**.
Thomas Erskine, Lord **Erskine**.
William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
Henry Devereux, Viscount **Hereford**.
Gregory William Twisleton, Lord **Say and Sele**.
Richard Hely Hutchinson, Earl of **Donoughmore**.
George John Spencer, Earl **Spencer**.
Henry Fitzmaurice Petty, Marquis of **Lansdowne**.
James St. Clair Erskine, Earl of **Rosslyn**.
John Hely Hutchinson, Lord **Hutchinson**.

Because the proposal contained in the resolution as explained in debate, that the two Houses should direct the royal assent to be given to a Bill or Bills, under a commission to which the Great Seal by their direction and authority is to be affixed, seems to us a solecism in language, and a violation of the Common and Statute Law of this Kingdom.

If the assent is given by the direction of the two Houses of Parliament, without any person being empowered to give or withhold at his discretion that assent, it is in substance the assent of the two branches of the Legislature to their own Act, and it can neither deserve the name, nor obtain the authority of the assent of the King, or of any person representing on his behalf the third branch of the Legislature.

By the Statute of the 33rd of Henry VIII, and more expressly by the 1st of Queen Mary, Session the Second, it is provided, declared and enacted, 'That the royal assent or consent of the King or Kings of this realm to any Act of Parliament, ought to be given in his own royal presence, being personally present in the Higher House of Parliament, or by his Letters Patent under a

Great Seal, assigned with his hand, and declared and notified in his absence to the Lords Spiritual and Temporal, and the Commons, assembled together; and the omission of the usual words in the Commission, and substitution of the King's Stamp for his royal signature, are, by the Statute of Queen Mary, declaring the attainder of the Duke of Norfolk of none effect, deemed sufficient to render void and null the assent given under that Commission, although the Great Seal was annexed thereunto.

By the 13th of Charles II, it is further declared, that no Act or Ordinance, with the force or virtue of a law, can be made by either or both Houses of Parliament.

We conceive therefore on the one hand, that a Commission so created and so limited can never, by any fiction of law or annexation of seal, convey the royal assent, in defiance of the obvious meaning of language, and the strict and legal definition of the term; and, on the other hand, till the royal assent be obtained, we cannot, in violation of the fundamental principles of the Constitution, and in the face of a declaratory Statute, give to the Act or ordinance of two branches of the Legislature only, the force and virtue of a law.

2ndly, Because in no instance, while the government of the country has been acknowledged to be in King, Lords and Commons, has any statute or law been enacted without the concurrent assent of the three branches of the Legislature.

3rdly, Because the proceedings of the two Houses in 1788 are incomplete, and cannot therefore be entitled to the weight and authority of a constitutional precedent.

The adherence to precedent, so wisely enforced by the theory and practice of our Constitution, is justified by considerations which cannot attach to incomplete transactions, viz. the union of authority and experience, and a confidence in the wisdom of a design, founded on a view of the benefits resulting from the execution of it.

The opinions therefore of the majorities and minorities of 1788-9, deserve such attention as the respective number and characters of those who composed them are calculated to command; but they cannot obtain the force and value of a Constitutional precedent, which can only be conferred on a measure by the practical knowledge and experience of its effects.

4thly, Because the conduct of the Irish Parliament in 1789

forms as binding a precedent, and affords as salutary an example to the two Houses of the Imperial Parliament, as the proceedings of the Estates of Great Britain on the same occasion; and the two Houses of Parliament in Ireland concurred in a joint address, requesting His Royal Highness the Prince of Wales 'to take upon him the government of the realm of Ireland during his Majesty's indisposition,' and 'to exercise and administer according to the laws and constitution of that Kingdom, all regal powers, jurisdictions and prerogatives to the Crown and Government thereof belonging.'

William Henry, Duke of **Clarence**.
 Henry Richard Fox Vassall, Lord **Holland**.
 Augustus Frederic, Duke of **Sussex**.
 George Child Villiers, Earl of **Jersey**.
 William Frederic, Duke of **Gloucester**.
 James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
 Edward, Duke of **Kent**.
 Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 Frederic, Duke of **York**.
 John Russell, Duke of **Bedford**.
 Ernest Augustus, Duke of **Cumberland**.
 William Charles Keppel, Earl of **Albemarle**.
 Adolphus Frederic, Duke of **Cambridge**.
 George Keith Elphinstone, Lord **Keith**.
 Francis Rawdon, Lord **Hastings and Rawdon** (Earl of Moira).

Henry Fitzmaurice Petty, Marquis of **Lansdowne** (for the second, third, and fourth reasons).

Thomas Dundas, Lord **Dundas**.
 Archibald Kennedy, Lord **Ailsa** (Earl of Cassilis).
 Thomas Taylour, Marquis of **Headfort**.
 George Granville Leveson Gower, Marquis of **Stafford**.
 Walter Butler, Lord **Butler** (Marquis of Ormonde).
 Francis William Caulfield, Earl of **Charlemont**.
 George Forbes, Lord **Granard** (Earl of Granard).
 Charles Anderson Pelham, Lord **Yarborough**.
 John Fitzpatrick, Lord **Upper Ossory** (Earl of Upper Ossory).
 Thomas Erskine, Lord **Erskine**.
 William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
 Sackville Tufton, Earl of **Thanet**.
 Henry Devereux, Viscount **Hereford**.
 Richard Hely Hutchinson, Earl of **Donoughmore**.
 George John Spencer, Earl **Spencer**.
 Charles Howard, Duke of **Norfolk** (Earl Marshal).
 Alexander Hamilton, Lord **Dutton**.
 James St. Clair Erskine, Earl of **Rosslyn**.

John Bligh, Lord **Clifton** (Earl of Darnley).
 William Norton, Lord **Grantley**.
 John Hely Hutchinson, Lord **Hutchinson**.
 George James Cholmondeley, Earl **Cholmondeley**.
 Richard Lumley Sanderson, Earl of **Scarborough**.
 John Howard, Earl of **Suffolk and Berkshire**.
 Frederic Howard, Earl of **Carlisle**.

DXXVII.

JANUARY 4, 1811.

The Lords and Commons agreed in five resolutions,—1st, That the Prince of Wales should act as Regent, 'in such a manner and to such an extent as the present circumstances and the urgent concerns of the nation seem to require.' 2ndly, That he should be disabled for a limited time from granting a peerage; or 3rdly, any office in reversion, or office, salary, or pension, for any other time than during his Majesty's pleasure, except offices required by law to be granted for life, or during good behaviour.' 4thly, That the King's property should be vested in trustees; and 5thly, That the care of the King should be in the hands of the Queen, assisted by a Council. The Opposition moved to leave out the words 'and to such an extent' from the first resolution, on the motion of Lord Lansdowne. This was rejected. Another motion, however, to leave out the words, 'subject to such restrictions and limitations as may be hereafter provided,' was carried by 105 to 102.

The following protest was inserted on the insertion of the words 'and to such an extent.'

Because we think ourselves called upon to protest in the most solemn manner against the principle of suspending during his Majesty's indisposition any of those lawful prerogatives of the Crown, which the Constitution vests in the King, not for his personal benefit, but as a trust on behalf of the people; and to declare, that in our opinion, if such prerogatives are necessary and advantageous to the people under the permanent Government of a King, they are equally advantageous and more necessary under the temporary and precarious authority of a Regent, especially in a period of extensive warfare and great national embarrassments.

Adolphus Frederic, Duke of **Cambridge**.
 George John Spencer, Earl **Spencer**.
 Frederic, Duke of **York**.
 James St. Clair Erskine, Earl of **Rosslyn**.
 George James Cholmondeley, Earl **Cholmondeley**.
 Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).
 Augustus Frederic, Duke of **Sussex**.

Henry Richard Fox Vassall, Lord **Holland**.
 Edward, Duke of **Kent**.
 James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
 William Henry, Duke of **Clarence**.
 George Keith Elphinstone, Lord **Keith**.
 William Frederic, Duke of **Gloucester**.
 William Charles Keppel, Earl of **Albemarle**.
 Francis Humberstone Mackenzie, Lord **Seaforth**.
 Thomas Erskine, Lord **Erskine**.
 Thomas Dundas, Lord **Dundas**.
 William Henry Vane, Earl of **Darlington**.
 John Christopher Burton Dawnay, Lord **Dawnay** (Viscount Downe).
 Francis Rawdon, Lord **Hastings and Rawdon** (Earl of Moira).
 Gregory William Twisleton, Lord **Say and Sele**.

DXXVIII.

JANUARY 4, 1811.

When the fifth resolution came forward, Lord Liverpool informed the House, that if it were opposed he should call for proxies. Several Lords avowed that they could not be called in the present case, and Lord Erskine argued that this privilege was often and should be suspended. After an attempt to postpone the debate, which was defeated by 3 (102 to 99), Lord Lauderdale, as Teller, refused to admit proxies, and the House divided on the subject, when the motion for excluding them was carried by 102 to 99. The following protest, headed by Lord Arden, was entered.

1st, Because the right of voting by their proxies is an inherent right of the Lords Spiritual and Temporal of the United Kingdom as now assembled, the exercise of which cannot be restrained in any manner not sanctioned by the usages of the House.

2ndly, Because if, by a previous Standing Order of the House, or its previous resolution in any particular case, the House hath a power of determining that proxies shall not be used, the Lords absent either directly or in effect have (as they ought to have) a voice by their proxies upon the question, whether such Standing Order or Resolution shall be made, it appearing from the Journals, that the Lords absent have a right by their proxies to vote, and have so voted against the question being put, whether proxies shall be used in the business depending before the House.

3rdly, Because if it were otherwise, it would be in the power of a majority of the Lords present, in every case in which they foresaw that the legal and constitutional majority of the House, consisting of Lords present and Lords having constituted proxies, were likely

to differ from them, to determine by a resolution that proxies should not be used on the depending question, against the judgment of the legal and constitutional majority of the House.

4thly, Because, in the present case, the principal question having been put, and the House being actually engaged in a division thereupon, and the Lords present having voted therein, it appears to us to have been altogether irregular and against order, to entertain any motion at that particular time introduced touching the use of proxies upon the business of the principal question, and that the use of proxies could not be regularly or constitutionally restrained by any such proceeding.

John Scott, Lord **Eldon** (Lord Chancellor).
 Robert Banks Jenkinson, Earl of **Liverpool**.
 Dudley Ryder, Earl of **Harrowby**.
 Henry Phipps, Lord **Mulgrave**.
 Philip Stanhope, Earl of **Chesterfield**.
 George Kenyon, Lord **Kenyon**.
 Heneage Finch, Earl of **Aylesford**.
 George Douglas, Lord **Douglas of Lochleven** (Earl of Morton).
 John Freeman Mitford, Lord **Bedesdale**.
 Alleyne Fitzherbert, Lord **St. Helens**.
 Thomas De Grey, Lord **Walsingham**.
 Richard Edgecumbe, Earl of **Mount Edgecumbe**.
 Edward Lascelles, Lord **Harewood**.
 John Craggs Eliot, Lord **Eliot**.
 James Graham, Earl **Graham** (Duke of Montrose).
 John Luxmore, Bishop of **Hereford**.
 Francis Napier, Lord **Napier**.
 Richard Colley Wellesley, Lord **Wellesley** (Marquis Wellesley).
 John Fane, Earl of **Westmorland**.
 John Jeffreys Pratt, Earl **Camden**.
 Henry Bathurst, Earl **Bathurst**.
 William Shaw Cathcart, Viscount **Cathcart**.
 William Murray, Earl of **Mansfield**.
 Charles William Henry Scott, Lord **Tindall**.
 Alexander Home, Earl **Home**.
 Frederic Irby, Lord **Boston**.
 Henry Pelham Clinton, Duke of **Newcastle**.

DXXIX.

JANUARY 5, 1811.

It had become necessary during the time that the settlement of the Regency was pending, to authorise the issue of money from the Exchequer for the public service, in accordance with a vote of the Commons, a blank

being left for 'the Lords Spiritual and Temporal.' The introduction of these words was opposed, and objection was also taken to the use of the word 'commanded' as uttered by Parliament to the officers of the Exchequer. The Opposition asserted that this was an unconstitutional assumption. The resolution was, however, carried, and the following protest inserted.

Because the principle on which the resolution is founded would justify the assumption of all the executive powers of the Crown by the two Houses of Parliament, during any suspension of the personal exercise of the Royal authority.

Because this unprecedented and unconstitutional measure might have been avoided, without injury to the public service, by resorting (as was suggested in debate) to the mode of proceeding sanctioned by our ancestors in 1688, namely, an Address to His Royal Highness the Prince of Wales, to take upon him the civil and military administration of affairs, and the disposal of the public revenue, until the means of supplying the defect in the exercise of the Royal authority should be finally adjusted.

William Henry, Duke of **Clarence**.

James St. Clair Erskine, Earl of **Rosslyn**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

George John Spencer, Earl **Spencer**.

William Charles Keppel, Earl of **Albemarle**.

Henry Richard Fox Vassall, Lord **Holland**.

Thomas Erskine, Lord **Erskine**.

DXXX.

JANUARY 28, 1811.

An ordinary appeal case from the Court of Session in Scotland (Millar against McKellar) was before the House on petition. Earl Grosvenor took the opportunity of asserting that till the defect in the Constitution occasioned by the King's illness was remedied, it was irregular to deal with any other business than that of remedying the defect, and moved that the petition be not received. His motion was negatived without a division, and the following protest was inserted. Millar's petition was subsequently withdrawn.

Because the authority by which Parliament has now the means of deliberating, is derived from a proceeding irregular, and only to be justified by the necessity of the case, it ought therefore to be strictly circumscribed by the same rule, and not be permitted to extend to matters beyond the purposes for which it was created.

Because, the above proceeding has no connection with those

objects to which the attention of Parliament is now from an act of necessity directed.

Because, if a Parliament, meeting under the circumstances of the present, when one branch of the Legislature is incapable of exertion, should assume to itself a free scope in the objects of its deliberation before the defect in the Legislature is supplied, subjects may be brought into discussion by which a precedent may be established subversive of the Monarchy and the Constitution.

Robert Grosvenor, Earl **Grosvenor**.

Charles Grey, Earl **Grey**.

Henry Fitzmaurice Petty, Marquis of **Lansdowne**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

DXXXI.

JANUARY 28, 1811.

In naming the Council which should assist the Queen in the care of the King's person, Lord King moved the omission of Lord Eldon's name, insisting particularly that the Chancellor had violated his duty in 1804. He referred to the fact that Lord Eldon had affixed the Great Seal to certain documents on the 9th and 23rd of March in that year. An attempt had been made before to insert the names of the Archbishop of Armagh and the Duke of Bedford, but it failed, in the latter case by 86 to 68. The motion to omit Lord Eldon's name was lost by 139 to 54. The following protest was inserted; twenty-four Peers protesting without reasons.

1st, Because it is of the highest importance, that in the appointment of her Majesty's Council the public should have every security which previous conduct can afford, that the persons composing the same will not act under any undue bias, but that whilst they follow the course prescribed to them by their duty, for restoring his Majesty to the public exercise of his royal functions whenever he shall be in a capacity to resume them, they will neither expose his Majesty to the danger of a too early pressure of business, nor concur in representing his Majesty as qualified to act in his high office before his recovery shall be complete.

2ndly, Because it appears by the evidence of Doctor Heberden, taken on oath before a Committee of this House, 'That he was first called upon to attend his Majesty on the 12th of February, 1804; that he believed his Majesty presided at Council on the 23rd of April following, and that he should consider the interval between

those periods as constituting the duration of his Majesty's disease at that time;' yet nevertheless it appears from the Journals of this House, that between the two days above mentioned John Lord Eldon, being then Lord High Chancellor of Great Britain, did, on the 5th of March, 1804, receive, and in his Majesty's name signify his Majesty's consent to a Bill, intituled, 'An Act to enable his Majesty to grant the Inheritance in Fee-Simple of certain Manors, Messuages, Lands, and Hereditaments in the parishes of Byfleet, Weybridge, Walton, Walton Leigh, and Chertsey, in the county of Surrey, to his Royal Highness Frederick, Duke of York and Albany, for a valuable consideration;' and that he did also put the Great Seal to a Commission, dated the 9th of March, by virtue of which fifteen Bills received the Royal assent, as well as to a Commission dated the 23rd of March, under which seventeen other Bills received the Royal assent, although his Majesty was at that time, as appears by the evidence above recited, afflicted by a malady of the same nature and character with that which has now occasioned a suspension of the Royal functions.

3rdly, Because it further appears from the same evidence, 'That after the period when his Majesty was so far recovered as to be able to transact business at any period of any day, he still retained such marks of indisposition about him, as made it expedient that some one of his Majesty's physicians should be about his person for some months afterwards; and that Doctor Heberden was in attendance on his Majesty so late as the end of October;' and it was stated in debate, and not denied, that during this latter period, and particularly on the 10th of June, 1804, when it was understood and believed, both by this House and the public, that his Majesty was perfectly recovered, his Majesty not only continued in a state which required medical guidance, but that both Doctor Simmonds and his assistants were still in attendance on, and possessed a control over his Majesty; yet, that nevertheless, while his Majesty was still subject to such personal control, the said John Lord Eldon, as Lord High Chancellor of Great Britain, did receive his Majesty's pleasure on divers important matters of his Majesty's Royal Government, and did in virtue of his said office perform various public acts, requiring the sanction of the King's authority.

4thly, Because John Lord Eldon having so conducted himself, is not in our judgment a person to whom the sacred trust of acting as

one of her Majesty's Council in the care of his Majesty's person, and in the discharge of the other most important duties by this act committed to the said Council, can with propriety or safety be committed.

Charles Grey, Earl Grey.
 James St. Clair Erskine, Earl of Rosslyn.
 James Maitland, Lord Lauderdale (Earl of Lauderdale).
 Edward Smith Stanley, Earl of Derby.
 Henry Richard Fox Vassall, Lord Holland.
 Richard Barrè Downing, Lord Ashburton.
 Thomas Erskine, Lord Erskine.
 Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).
 William Ponsonby, Lord Ponsonby of Imokilly.
 Peter Leopold Louis Francis Cowper, Earl Cowper.

DXXXII, DXXXIII.

FEBRUARY 2, 1811.

Letters patent were this day passed under the Great Seal, in order to give assent to the Regency Bill (51 George III, cap. 1). The following protests were entered.

For the reasons assigned in the protest entered on the Journals of this House on the 28th of December, 1810, on the question being put, Whether to agree with the Committee in the third resolution voted by this House? being the last protest entered on that day.

Henry Richard Fox Vassall, Lord Holland.
 Charles Grey, Earl Grey.
 Edward Smith Stanley, Earl of Derby.
 William Ponsonby, Lord Ponsonby of Imokilly.
 James St. Clair Erskine, Earl of Rosslyn.
 James Maitland, Lord Lauderdale (Earl of Lauderdale).

For the three last reasons assigned in the said protest.

Henry Fitzmaurice Petty, Marquis of Lansdowne.

1st, Because, having disapproved of the state of anarchy in which this country has been kept for three months, and which might have been prevented by following the precedent of 1688, I cannot agree to this measure for terminating it, which I consider to be unconstitutional and illegal; as by ordering this Commission to be passed, the two Houses of Parliament assume that power into their own hands to make a law, which it is expressly declared they have not

by Statute the 13th of Charles II; and in order to suit the emergency, the usual and important words are left out of this Commission, 'having seen and understood the clauses of the Bill.'

2ndly, Because, I disapprove of the Bill which this Commission is to pass in this unprecedented manner, as thinking it impolitic and inexpedient; and it appears to me to be very ungracious for the two Houses of Parliament to be taking advantage of the defenceless state of the third branch of the Legislature to attack its prerogatives; and if this principle be admitted, of only allotting such portion as we think fit of the Royal authority to the person executing the Royal functions, upon the same principle still further limitations might have been added, and the Regent rendered merely a cypher, and the Monarchy itself degraded in the eyes of the public.

Frederic Ponsonby, Lord Ponsonby (Earl of Bessborough).

DXXXIV.

APRIL 4, 1811.

The Duke of Richmond was at this time Lord Lieutenant of Ireland, and Wellesley Pole, subsequently Lord Mornington, was chief secretary. Early in 1811, the Lord Lieutenant received the copy of a letter signed by one Edward Hay (who styled himself secretary to the general committee of the Catholics in Ireland sitting in Dublin), and sent to the Catholics throughout that kingdom, urging them to appoint managers for the petition against Catholic disabilities. Mr. Pole, by the Lord Lieutenant's command, issued a circular letter to the sheriffs and chief magistrates in Ireland, ordering those officials to arrest all persons concerned in such an election or appointment of managers. On the 22nd of February, Lord Lansdowne in the Lords and Mr. Ward in the Commons moved for papers connected with this affair, and on the 4th of April, Lord Stanhope again brought the question before the Lords, and moved a condemnation of Mr. Pole. His motion was negatived by 21 to 6, and the following protest was inserted.

1st, Because the magistrates of Ireland are required, by the letter of Mr. Wellesley Pole, to commit persons to prison (unless bail be given) for a misdemeanor, which is not and cannot be construed into a breach of the peace; and such commitment, unknown to the common law in cases of misdemeanor, is neither directly nor indirectly authorized by the statute to which he refers.

2ndly, Because the magistrates of Ireland are required, by the

letter of Mr. Wellesley Pole, to proceed against persons to whom the provisions of the 33rd of the King, chap. 29, nowise apply, viz. against those who have merely attended, without voting or acting at such elections or appointments as are specified in that statute.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
Henry Richard Fox Vassall, Lord **Holland**.

DXXXV.

JUNE 5, 1811.

A private Bill was carried through Parliament for the settlement of the estate of Thomas Pryce deceased, in pursuance of that person's will. One of the clauses in the Bill empowered a Master of Chancery, upon petition, to refund to William Booth Grey (the husband of Thomas Pryce's eldest daughter and tenant for life, with remainder in tail to her issue) a sum not exceeding £2548 9s. 2d. expended by him in buildings and repairs at Duffryn house. The opposition to the Bill can be gathered from the following protest.

1st, Because the clause in question provides for repayment to the husband of a tenant for life of expenses incurred in rebuilding offices and stables belonging to the estate of which his wife is tenant for life, and in repairing such mansion house and new slating the same, although no circumstance has been stated to entitle him to such repayment which will not equally justify the like interposition of Parliament to repay similar expenses in the case of every tenant for life, and consequently to throw by a special law, upon the inheritance of every estate the burthen of repairs, which the general law of the land imposes on those who enjoy life-interests.

2ndly, Because such special interpositions of Parliament, altering the general law of the land, must necessarily, for obvious reasons, produce inequality in the rights of individuals in the enjoyment of property.

3rdly, Because the precedents referred to in support of the clause are in themselves very questionable, and yet do not warrant the clause; and it is strange reasoning, that because Parliament has done wrong in one case it ought to do wrong in another; and perhaps stranger reasoning, that because Parliament may have done wrong in one case it ought to do wrong, and more wrong in another.

4thly, Because the clause in question operates partially and retrospectively to alter the general law of the land; and if the expense of buildings and repairs incurred by persons having life-interests ought, without any special circumstance, to be thrown on the inheritance, the general law of the land ought to be altered; but such alteration ought to operate prospectively only, and not retrospectively; so that those who may, after such alteration in the law, create estates for life, either by voluntary disposition or by contract, being aware of the new law, may guard against its operations by special provisions if they should see fit. But if Parliament can, with propriety, thus alter the general law by special Act applied to a particular case, not distinguished by particular circumstances, any such special provisions must be nugatory and vain.

5thly, Because the clause in question tends directly to destroy that reliance which every man ought to have, that the law of the land will protect that property in which he is entrusted from any burthen in favour of others having partial interests in the same property, which neither the general law of the land, nor the disposition under which he claims, has imposed on it; and it must therefore tend to destroy all confidence in the general law of the land, and render all rights of property uncertain, and wholly dependent on such special law as Parliament may be prevailed upon to make on the particular subject.

John Scott, Lord **Eldon** (Lord Chancellor).

Charles Howard, Duke of **Norfolk** (Earl Marshal).

Richard Le Poer Trench, Earl of **Clancarty**.

Thomas De Grey, Lord **Walsingham**.

John Freeman Mitford, Lord **Redesdale**.

DXXXVI.

JULY 2, 1811.

The bank-note, after the suspension of specie payments in 1797, had not for some years been depreciated to any notable degree. The course of its value may be found in Tooke's History of Prices, vol. iv, and in Porter's Progress of the Nation, sect. iii, cap. 12. Between 1808 and 1814, owing to excessive issues of paper, the note was seriously depreciated. In 1811, Lord King, who had constantly opposed the Bank Restriction Act, and had acquired a great reputation for his acquaintance with monetary science, issued a notice to his tenants that they must pay

their rents in gold, intending to raise the issue involved in the restriction by this Act, and being particularly moved to such a course of proceeding, as the editor has been told by Lord King's son (Mr. Locke King), by the fact that a bank director was one of his tenants. A great outcry was raised against Lord King, and Earl Stanhope brought in a Bill which ultimately became 51 George III. cap. 157, forbidding to give more than twenty-one shillings for a guinea, or less for a bank note than the amount for which it purported to be payable. The second reading was carried in the Lords by 36 to 12, and the following protest was entered.

Because we think it the duty of this House to mark in the first instance, with the most decided reprobation, a Bill which, in our judgment, manifestly leads to the introduction of laws imposing upon the country the compulsory circulation of a paper currency; a measure fraught with injustice, destructive of all confidence in the legal security of contracts, and, as invariable experience has shewn, necessarily productive of the most fatal calamities.

William Wyndham Grenville, Lord Grenville.

George Capel, Earl of Essex.

George Child Villiers, Earl of Jersey.

Charles Grey, Earl Grey.

Henry Fitzmaurice Petty, Marquis of Lansdowne.

Peter Leopold Louis Francis Cowper, Earl Cowper.

Peter King, Lord King.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

For the foregoing reason, and because the repeal of the law for suspending bank payments in cash is in my judgment the only measure which can cure the inconveniences already felt, and avert the yet greater calamities which are impending from the present state of the circulation of the country.

Henry Richard Fox Vassall, Lord Holland.

DXXXVII.

JULY 8, 1811.

The Gold Coin Bill was read a third time on this day, and passed (the debate may be found in Hansard, vol. xx, p. 847), by 43 to 16. An attempt was made to get the opinion of the judges on some parts of the Bill, but the proposal was rejected at the Chancellor (Eldon's) instance. The Bill was read on the 9th of July in the Commons for the first time, and was carried by 64 to 19. Lord Stanhope's famous resolutions were

brought forward in the Lords on the 12th of July. A conviction had been recorded just before against a Dr. Yonge for selling guineas.

The following protest was entered against the third reading, nine other Peers dissenting, but without reasons.

Because it appears to us, that this Bill must diminish the value of notes of the bank of England, which it pretends to sustain, by depriving the debtors throughout the kingdom of the power of using them in discharging the full amount of their lawful debts; it must in a degree diminish the demand for them, and it cannot be disputed, consistently with the principles admitted in debate, that a diminution of demand for the notes of the Bank of England must of necessity lower their value.

Besides, we must think that the Legislature enacting that notes of the Bank of England shall not be paid or received at a lower value than that for which they purport to be issued, must have a direct tendency to diminish their value; because it can only be considered as a parliamentary declaration, that in public opinion they no longer possess that value which they always maintained when convertible into the coin of the realm on demand.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DXXXVIII.

MARCH 2, 1812.

Serious disturbances had taken place at Nottingham during the winter of 1811-12, the rioters breaking into houses and destroying lace and stocking-frames. In consequence, a Bill, making the provisions of 28 Geo. III, cap. 55 more strict, was brought into the Lords early in the Session, and passing through both Houses, received the royal assent on the 20th of March (52 Geo. III, cap. 16). It inflicts the penalty of death on frame-breaking, and makes all persons who do not give notice of those who have committed such outrages guilty of a misdemeanour. It was enacted only from year to year, and was repealed in 1814. The second reading of the Bill was carried by 32 to 17. The debate was remarkable for a speech by Lord Byron, the first he made in the House, in which he warmly attacked the Bill, and recommended that to carry it out the Act should provide 'twelve butchers for a jury and a Jeffries for a judge.' The Act was attacked also by Lords Lauderdale, Holland, Grosvenor, Grenville, Grey, Carlisle, Douglas (Marquis), and Rosslyn. It was defended by Lords Liverpool, Harcourt, and Elgin.

The following protest was entered against the third reading.

Because we feel ourselves in duty bound to record our disapprobation of all further proceedings on a Bill characterised by those

who supported it, as indiscriminately inflicting the punishment of death on all crimes described by words copied out of an Act of Parliament, which had in no instance the forfeiture of life in contemplation.

It was with a mixed feeling of surprise and indignation we learnt, from the discussion that has already taken place, that this Bill, in its nature the most interesting, grave, and important that can be submitted to the consideration of the Legislature, had been framed without sufficient deliberation to enable the friends of the measure to give any distinct explanation of the precise crimes to which, under the legal import of the words thus thoughtlessly and precipitately adopted, it is proposed to extend the punishment of death.

We cannot, therefore, under such circumstances, consent to go into a Committee, for even the amendments which might be there proposed and adopted would, in our opinion, disgrace the two Houses of Parliament, by recording that they were capable of rashly agreeing to the principle of a Bill thus indiscriminately and by wholesale applying capital punishment to a variety of offences differing in their motive, their character, and their guilt, for the purpose of considering what exceptions might subsequently be suggested by prudence and humanity, which ought exclusively to guide the judgment of the Legislature in every stage of their deliberations on all Acts of Criminal Legislation.

We agree in the opinion so generally expressed in this House, that the conduct of the manufacturers in destroying frames and other machinery used in our manufactures, must proceed from mistaken views of their own interests, as they, more than any other class of his Majesty's subjects, are deeply interested in the preservation of machinery, to the improvement of which we owe our existence as a manufacturing country.

But we think it our duty strongly and in distinct terms to reprobate the unprecedented folly of attempting to enlighten the minds of men in regard to what is beneficial for themselves by increased severity of punishment, whilst every sound principle of criminal legislation makes us regard such an addition to the long list of offences already subjected to capital punishment by the laws of this country with astonishment and disgust; and every feeling of humanity leads us to express the utmost horror at the wanton

cruelty of punishing our fellow-creatures with death for those culpable Acts, more injurious to themselves than to any other part of the community, to which, through mistaken views of policy, the encreasing distress of the times has reduced them to resort.

James Maitland, Lord Lauderdale (Earl of Lauderdale).
James St. Clair Erskine, Earl of Rosslyn.

DXXXIX.

MAY 4, 1812.

The Legal Tender Act of the previous Session was continued by Act of Parliament, 52 Geo. III, cap. 50. It produced the following protest.

Because we feel it our duty to record our disapprobation of a Bill which, in effect, must make the paper of the Banks of England and of Ireland a legal tender.

In America, in France, and in other countries, paper money has been thus substituted for coin; but in every instance, history informs us, that this disgraceful practice was soon abandoned, from the experience of the ruinous consequences which almost immediately ensued.

We do therefore most anxiously deprecate the adoption of a measure which, in our opinion, will prove as hostile to the interest of individuals, as it must be injurious to the character, to the credit, and to the real welfare of this mercantile country.

2ndly, Because the regulation of the current coin, which in every country is an act of sovereign power, appears to us to be in effect transferred by this Bill to the Directors of the Banks of England and of Ireland, who owe to the proprietors of the stocks of their respective establishments duties perfectly inconsistent with the due administration, for the benefit of the public, of this royal prerogative, which is so incautiously conveyed to them.

We think ourselves therefore called upon, in the strongest manner to censure the principle of a Bill by which this most important prerogative of the Crown, for the prudent and upright exercise of which our Constitution requires that there should be a responsible adviser, is placed in hands over whom Parliament has no controul, and who are alone responsible to their constituents for the exercise of a judicious activity in abusing it.

3rdly, Because this measure must enable the Bank of England, which has already acquired from the public an extraordinary profit of upwards of £18,000,000 since the restriction of cash payment, and the Bank of Ireland, which during that period has been more than proportionably enriched, to levy contributions to an unlimited extent on the people of these Kingdoms.

We cannot therefore, without the utmost alarm, see the Constitution of this country violated by the rash transfer of the power of taxing the people from Parliament to the Directors of two Corporations, for the purpose of enabling them to add to the immoderate profits they have already acquired by the mismanagement of our Government; and we do most seriously lament that recourse should be had to this rash, improvident, and unprecedented measure, when we reflect how universally and how severely the subjects of this country already feel those burthens which at this alarming crisis the necessities of the State have induced their representatives to impose upon them.

4thly, Because it appears to us, to be the most important duty of the Legislature, in all criminal legislation, to define the act it constitutes a crime, in terms as simple as they are clear, distinct, and intelligible, so that none may err from mistake; that crime may be imputed to no one from misconception; and that the innocent may never be plausibly accused from motives of policy or of malice.

We must therefore consider this Bill as disgraceful to the two Houses of Parliament; for to us it seems to enforce this unprecedented and ruinous measure by enactments which empower the Government to institute vexatious prosecutions, that must, from the terms of the enactments, prove abortive in all cases where the person accused has the means of conducting his defence; and which can alone be efficacious where fear leads the accused to decline a defence, or where poverty renders it impossible for him to undertake it.

James Maitland, Lord Lauderdale (Earl of Lauderdale).
James St. Clair Erskine, Earl of Rosslyn.

DXL.

JULY 4, 1812.

Lord Stanhope introduced a Bill into the Lords, under the title of 'The Members of the Church of England Relief Bill,' the object of which was the repeal of a number of enactments to which members of the Church of England were subject, and to declare the liberty of religious opinion. The Bill was rejected by 31 to 10. Lord Holland's protest was inserted at once, but on the 6th of July he obtained leave to erase it, and to substitute the following in its place.

Because the toleration hitherto granted to Dissenters by law is incomplete, amounting to nothing more than a partial and conditional exemption from penalties and persecutions; whereas the Bill now rejected, by recognizing the right of private judgment in matters of conscience, would have placed religious liberty on its only true and legitimate basis.

Henry Richard Fox Vassall, Lord Holland.

Charles Stanhope, Earl Stanhope.

Charles Howard, Duke of Norfolk (Earl Marshal).

DXLI.

MARCH 13, 1813.

The Earldom of Banbury was created on the 18th of August, 1628, in the person of William Knollys, son of Sir Francis Knollys, who was maternally related to Queen Elizabeth. The Earl married as his second wife Elizabeth Howard, daughter of the Earl of Suffolk, and died at the age of eighty-eight in 1632. His widow married Lord Vaux of Harrowden, and after her former husband's death produced two sons, whom she averred to be the children of Lord Banbury. The younger of these sons (his elder brother having died) took his seat in the Lords in 1660, but was not unchallenged. In 1661 he was not summoned, and thereupon petitioned for his writ. Thenceforward the claim was continued by the descendants of the first claimant till 1813, when the Lords finally decided against the claim. The whole of the facts of the case are embodied in a report of the Committee of Privileges, presented to the Lords on the 13th of April, 1808, and contained in the Journals. The following protest was entered on the rejection of the claim put forward by General William Knollys, called Earl of Banbury¹.

Because it was satisfactorily proved before the Committee, that William Viscount Wallingford, Baron Knollys of Greys, was in the third year of King Charles I, by letters patent to him and the

¹ A statement of the whole case, and a full account of the law of adulterine bastardy is given in a work by Sir Harris Nicolas; London, 1836.

heirs male of his body created Earl of Banbury, and that the claimant was lineally descended from, and was the heir male of Nicholas Knollys, whose petition to King Charles II that he might have a writ of summons to Parliament as being son and heir of William the first Earl, was referred to the Lords' Committees for Privileges, on the 6th day of June in the year 1661; and it was therefore admitted, that the only question before the Committee to determine was, Whether the said Nicholas was the son of William the first Earl?

Because after the whole evidence had been given and duly considered, it appeared to the Committee, that the determination of this matter involved a question of law, and that it was advisable to ask the opinion of the learned Judges on the subject, who, on the 4th of July, 1811, upon questions for that purpose having been proposed to them, delivered by the Lord Chief Justice of the Court of Common Pleas the following unanimous answers:—

1st, That in every case where a child was born in lawful wedlock, the husband not being separated from his wife by a sentence of divorce, sexual intercourse was presumed to have taken place between the husband and wife, until that presumption was encountered by such evidence as proved to the satisfaction of those who were to decide the question, that such sexual intercourse did not take place at any time, when by such intercourse the husband could, according to the laws of nature, be the father of such child.

2ndly, That the presumption of the legitimacy of a child born in lawful wedlock, the husband not being separated from his wife by a sentence of divorce, could only be legally resisted by evidence of such facts or circumstances as were sufficient to prove, to the satisfaction of those who were to decide the question, that no sexual intercourse did take place between the husband and wife at any time, when by such intercourse the husband could, by the laws of nature, be the father of such child: That where the legitimacy of a child in such a case was disputed, on the ground that the husband was not the father of such child, the question to be left to the jury was, Whether the husband was the father of such child? And the evidence to prove that he was not the father, must be of such facts and circumstances as were sufficient to prove to the satisfaction of a jury, that no sexual intercourse took place between the husband and wife at any time, when by such intercourse the husband could,

by the laws of nature, be the father of such child : That the non-existence of sexual intercourse was generally expressed by the words, 'Non-access of the husband to the wife;' and that the Judges understood those expressions as applied to the present question, as meaning the same thing; because in one sense of the word access, the husband might be said to have access to his wife, as being in the same place, or the same house, and yet under such circumstances as instead of proving, tended to disprove, that any sexual intercourse took place between them,

Because the foregoing answers throughout all the arguments leading to the final report of the Committee against which we now protest, were considered as giving the rule by which the Committee ought to be guided; it being distinctly admitted that the question was not alone whether it was more or less probable that the said Nicholas was in fact the son of William, the first Earl of Banbury, but whether upon the evidence before the Committee he ought *de Jure* so to be considered, according to those rules and principles of judgment which would govern in the same case, the decision of a Court of Law.

Because in support of the proposition that Nicholas ought so to be considered by the Committee, it was satisfactorily proved by the Journals of the House collected and reported by the Committee itself in its preliminary proceedings, that he sat as Earl of Banbury in the Convention Parliament of Charles II, which assembled without writ, and that on the 13th day of June, 1660, during the sitting of that Parliament, on a question being made 'That a person, viz. the Earl of Banbury, sat as a Peer, who it was conceived had no title,' the matter was ordered to be heard at the Bar of the House, on Monday, the 23rd of July; on which day it sufficiently appeared by the Journals that the said Nicholas, sitting as Earl of Banbury, was present, and was on that day named to be one of twenty-two Lords on a Committee then depending; yet that the objection to his title was not then heard, nor was there to be found any preceding entry in the Journal discharging the order, nor any adjournment of the consideration of the business, nor any entry of its being resumed during the Session; and it further appeared that he sat as Earl of Banbury during the remainder of that Parliament without further question, although the House afterwards proceeded upon and decided the disputed Barony of Sandys.

Because it further appeared that no writ was issued to summon the said Nicholas to the succeeding Parliament, because only of the question which had been so made and abandoned in the Parliament preceding.

Because it was further satisfactorily proved by the Journals, that the said Nicholas did thereupon present his petition to King Charles II, for his writ of summons, which was referred by his Majesty to the House, and by the House to the Lords' Committees for Privileges, who after hearing counsel and witnesses, did on the 1st day of July, 1661, unanimously report, 'That Nicholas Earl of Banbury was a legitimate person'; and because it further appeared that after such report, the petition was on the 9th day of July, in the same year, again heard at the Bar of the House, and that after hearing counsel on the part of the said Nicholas, and also Mr. Attorney-General, Mr. Serjeant Maynard, and Mr. Serjeant Glynn, on the part of the Crown, the consideration of the matter was again referred to the Lords' Committees for Privileges, who were of opinion to report, and again unanimously reported, 'That Nicholas Earl of Banbury, being in the eye of the law son to the late William Earl of Banbury, the House should therefore advise the King to send him a writ to come to Parliament.

Because it was the duty of the House to the King as well as to the claimant to have proceeded according to the forms and customs of Parliament, either to affirm or negative these decisions of the Committee for Privileges, more especially as the matter thus formally and legally referred to them by His Majesty, was the petition of a person not only claiming to be a Peer, but who had actually sat as one during the whole of the former Parliament; whose writ had been withheld upon no other assigned ground than an unspecified objection before made and abandoned, and who had no other means of asserting the high inheritance of the Peerage, but by such petition to the King thus referred to the House of Lords.

Because the House, in neglect of its manifest duty to the King, to the claimant, and to the public, deeply interested in the due administration of justice everywhere, did nevertheless from time to time adjourn the consideration of the same until the 9th of December following, when without any resumed consideration, and without any notice to the claimant, who was in possession of the

decision of the Committee for Privileges, as a legitimate person, a Bill was suffered to be read a first time declaring him to be illegitimate.

Because no reason appeared for such an unjust and unprecedented proceeding except a pretence at that time wholly unsupported by evidence, and nowhere even suggested, but by the preamble of the Bill itself, without a known author or mover, and which was suffered immediately to expire unsupported, viz. that the said Nicholas was not to be considered to be the son of William Earl of Banbury, but as the son of Lord Vaux of Harrowden, although it had appeared without contradiction when the witnesses were examined before the Lords' Committees for Privileges, and on all hands both then and now admitted, that he was born of the body of Elizabeth Countess of Banbury, during her coverture with William the first Earl, not being separated from her by sentence of divorce or otherwise, and although no evidence was given or attempted to be given that ~~she~~ ~~had~~ been living in adultery, or had committed adultery with Lord Vaux of Harrowden, or with any other person whatsoever.

Because such evidence so standing recorded on the Journals as having been given before the Lords' Committees for Privileges in 1661, and upon which they reported that Nicholas Earl of Banbury was a legitimate person, was by the laws of this land, as delivered to us by the mouths of the Judges, conclusive evidence of his legitimacy, until encountered by contrary proof; and that no such contrary proof was given or attempted; yet although the Attorney-General representing the Crown, agreed that he was legitimate, although he was so unanimously reported by the Lords' Committees for Privileges, and although nothing whatsoever appears to have been ever said in the House to question the propriety of such admission and judgment, still no decision was given, either negating or affirming such report.

Because the claimant having thus established a valid title in the opinion of the public officers representing the Crown, and of the Lords' Committees for Privileges, who had reported in his favour, could take no further step, and was without all remedy, until it should be the pleasure of the House to proceed to judgment. It was not for him to consider the evidence he had produced as suspicious or unsatisfactory, when it had been accepted as sufficient;

it was for the House only, if it differed from its Committee, to have rejected its report, or to have called for further proof in its support.

Because the only attempt to explain and to justify so manifest a departure from all the forms and customs of Parliament was by alleging, that it evidently arose from a misunderstanding of the law which then prevailed, viz. that bastardy could not be established, even in the most notorious cases of adultery, because the access or sexual intercourse of the husband was at that time an untraversable and conclusive presumption, if he was within the four seas, during the natural period of gestation: this was argued to be the obvious foundation of the report of the Committee, and of the justifiable refusal of the House either to negative or affirm it: but against such justification, even if it were supported by positive proof, instead of resting upon unsupported presumption, we should equally protest, since if at that time this doctrine (mistakenly or not) was so generally understood, that the ablest counsel for the Crown, and a Committee of the whole House, the Supreme Court of Justice in the Kingdom, had accepted it as law, and considered themselves bound by it, no reason has been assigned for supposing that it must not at the very same period have equally been binding on the House itself; and in that case, it ought upon every principle of justice to the claimant, either to have affirmed the report of the Committee upon the proofs before it, or proceeded upon further proof to bastardise him by Act of Parliament: in either mode of proceeding, the claimant would have had the opportunity of supporting his title, if the evidence before the Committee was held to be suspicious or defective, and the Crown and the Lords would have had equal means of supporting the dignity and integrity of the Peerage, without the possibility of working injustice, when so many witnesses to the whole transaction were at that time living equally within the reach of the claimant and the Crown. By their testimony, which must then have been clear, distinct, and positive, he might either have been declared illegitimate, according to the rules of law, or if the misunderstanding of those rules had extended from the Committee to the House, it might have passed the Bill before it for bastardising the claimant, instead of suffering it to expire unsupported; more especially, as it appears by the evidence of cotemporaneous Statutes, to have been a course frequently

resorted to in these times ; but, when neither of these courses were pursued by the House, when no additional evidence whatsoever was either produced or called for, when it came to no adverse decision, nor proposed any Statute, nor even put upon record any reason or principle of dissent from its Committee, we do most solemnly protest against all inferences or presumptions now upon that part of the case, except such as arise from facts recorded in the Journals of that period.

Because it further appeared, that the House in this state of the proceedings, so far from considering the matter as concluded, or even dormant, did, upon the 26th of October, 1669, of itself take notice, 'That the Earl of Banbury's name was not in the list by which the Peers were called,' and ordered it to be referred to the Lords' Committees for Privileges 'to examine why his name was left out, he having formerly sat as a Peer in the House'; which Committee so appointed reported no other reason than that Sir Edward Walker, Garter, &c., had mentioned a certificate of an under herald, not duly made or authenticated according to the forms prescribed by the Earl Marshal, so as then or now to have been evidence before the House, by which certificate Earl William was made to have died without issue, 'and because there were two Parliaments in 1640, when Earl Nicholas's name was not in the lists,' although he was in 1640 only ten years' old, and could not have been named, as he could not have been summoned. Yet, although the Committee did at the same time report all the proceedings in the year 1661, and amongst them the two reports of unquestioned legitimacy, which still waited for confirmation or rejection, and although it does not appear that a word was uttered by any member of the House to bring into doubt or question the justice of such decisions so by their own order again brought before them, yet no judgment was given, nor any proceeding whatsoever directed.

Because it further appeared by the Journals, that the Earl of Banbury did thereupon on the 23rd of February in the same year 1669, present another petition to the House, and in the same manner afterwards in 1685, which petitions were as before referred to the Lords' Committees for Privileges, who again brought before the House its own former proceedings, yet still no judgment was given.

Because it further appeared by the Journals, that in the year 1692, although the House had thus for above thirty years together neglected as we conceive its most manifest duty to the King and to the claimant, by refusing to come to any decision upon a claim thus brought before them in a legal form by the King's authority, and by themselves so often referred to the Lords' Committees for Privileges, according to the ancient forms and customs of Parliament, yet, that nevertheless when the same case did not call upon the Lords, nor even entitled them (as we shall insist hereafter) to decide upon the claim of Peerage so as to affect the inheritance, but only to grant or to reject the petition of Charles Earl of Banbury, son of Earl Nicholas, then deceased, praying to be tried upon an indictment for murder, as a Peer of the realm, the House upon the very same evidence only which it had had before it for above thirty years without coming to any decision, did then resolve, that the said Charles had no right to the title of Earl of Banbury.

Because upon all the matters aforesaid (the said resolution being no bar, as we shall protest against hereafter) the claimant was entitled to the judgment of the Committee, unless new evidence had been brought forward, sufficient to controvert a title so supported; and for this purpose accordingly other circumstances were established not formerly in evidence, but which were not in our opinions commensurate with their object when brought to the standard of law, which by our own consent had been erected by the judges.

Because consistently with that standard, they could only be produced to establish a judicial belief and conviction, that William the first Earl of Banbury, had had no access to, or in other words sexual intercourse with his Countess, by which he could have been the father of Earl Nicholas; and for that purpose only the following facts were proved and brought in review by argument before the Committee; viz.

That William the first Earl was above eighty years of age when Nicholas must have been begotten, and had been married to his Countess for above twenty years without her having had any children, and that after Earl William's death she had within a period equally forbidden by decency and custom, married the Lord Vaux, in whose house at Harrowden, Earl Nicholas appeared to have been born.

But these circumstances, though insisted upon in debate as material to be considered and acted on as evidence, we may altogether put aside before proceeding to others which require far greater consideration.

Because with regard to the great age of Earl William, we answer, that there is no authority in the law, nor any instance in any recorded or known trial where the circumstance of age, however advanced, without proof of impotency from its consequences, or from disease or infirmity, has ever been considered by any Judge, or left as a fact to any Jury, as a circumstance to affect legitimacy; on the contrary, Bracton expressly considers it (and was cited for that purpose before the Committee) as matter which may be legally proved, and then undoubtedly, if believed, it is decisive.

In the same manner we deny, that the length of time for which a woman may have been barren after marriage, can be legally considered as a circumstance to affect legitimacy, unless it be proved that from infirmity or from age, she was incapable of having children; but we admit, that the following facts which were also proved before the Committee, are of an entirely different character, and which we have duly and deeply considered.

1st, That King Charles I, to induce the House of Lords to consent to an illegal precedence conferred upon Earl William by his patent, sent a message to the House whilst considering the question, asking, as the Journal records it, 'That the Earl being old and childless, might enjoy it during his time;' which message, though before the birth of Nicholas, being subsequent to the birth of Edward the eldest son of Lady Banbury, then an infant nearly a year old, it was argued with great force, that it went strongly to show, not only that Earl William was at that time considered to be childless, but that from his silent acceptance of the precedence thus conditionally yielded to him, he so considered himself.

2ndly, That though possessed of three different estates, which by antecedent settlements were intended to preserve such property in his name and family, he aliened one of them in fee to his Countess, to whom he had given besides the whole of his personal estate; a second to the Earl of Holland; and the third to Sir William Knollys, who in the default of children of the Earl, would have been entitled to inherit it in the course of descent, and that this

last estate so aliened was a royal grant for services, with a reversion in the Crown, and of course not alienable, but which must have descended to Earl Nicholas.

From these facts it was argued, that it was unreasonable to believe, or rather incredible, that Earl William knew he had issue by his Countess, who were to enjoy after him the honours of his house; and that with regard to the estate so aliened to Sir William Knollys, which was not by law alienable, it was unreasonable to believe that Earl Nicholas would not have claimed and enjoyed it, which it was proved he never had.

3rdly, That on the death of Earl William, he was found by an inquisition *post mortem* to have died without heirs of his body, and that certain persons named in it were his heirs. From this fact also it was maintained with great force, that as the Crown had a special interest in such inquisitions during the existence of the feudal tenures, and as it was manifest that deeds which must have been in the possession of the family had been examined by the Jury, it was not reasonably to be believed, but rather incredible, that such an inquisition could have been found, if the children of the Countess had been visible, and known and received as the children of Earl William deceased.

4thly, That though there was indeed another inquisition eight years afterwards, proceeding from a due authority as being for property in another county, and which found that Earl William had left Edward his son and heir, yet it was argued that as it found only the small insignificant property of the Bowling Place at Henley, in Oxfordshire, such proceeding by inquisition was by no means necessary, and that, as such property if disputed might have been recovered in a Court of Law, it ought to be considered as a fraud to support the spurious descent of the children of Lady Banbury, brought forward as it was alleged after her husband's death, by getting rid of the powerful presumption arising from the first inquisition immediately upon his death.

5thly, That by a deed to which Lord Vaux, Lady Banbury then his wife after Earl William's death, and Lord Salisbury and Lord Howard, very near relations, were parties, and which was made to settle estates of Lord Vaux's on Earl Nicholas, he was, though styled in the deed Earl of Banbury, described as theretofore known by the name of Nicholas Vaux, from which it was argued that he

had been considered by Lady Banbury herself, and by other near relations, as the son of Lord Vaux and not of Earl William, a presumption strongly fortified, as was contended, by the settlement in question.

From all these accumulating facts and circumstances it was argued, that there was sufficient evidence before the committee to establish, not only that Lady Banbury was living in adultery with Lord Vaux, when her children were begotten, but also, and without which the rule given by the Judges could not be satisfied, that Earl William had no sexual intercourse with his Countess by which he could have been the father of her children.

Lastly, To invest these circumstances with a weight not intrinsically belonging to them, resort was had to arguments of length of time upon all questions of inheritance; but whilst we acknowledge the soundness of the presumptions which the law has in that respect established, we not only reject them as inapplicable to the present question, but maintain that length of time divests the circumstances above relied on, of all their force and their effect.

Because all presumptions from length of time depend upon a principle which is founded upon the very nature and character of man; viz. That in a country governed by law, and where impartial justice is so universally administered, it is to be presumed that every man will enjoy what is his own; and that they who for a great length of time have not clothed their rights with possession (without being able duly to account for it) either never had such rights, or had for some cause or consideration released or abandoned them. In cases therefore where property depends upon conveyances and titles, positive Statutes of Limitation have been by the Legislature most wisely enacted; and in cases of incorporeal rights to which these statutes do not reach, the Judges have by analogy introduced the soundest rules of evidence which by degrees have ripened into rules of law, to protect property and rights against unjust invasion, when time may have destroyed all the means of resistance or defence.

Because it was therefore with the utmost surprise that in accumulating the circumstances just recited, and indeed throughout the whole debate, we heard it maintained that the claimant's case ought now to be received with every possible jealousy and caution, because the grave had swallowed up all witnesses who

might in other times have opposed it by their testimony; but against this argument not only in fairness to the claimant, but for the preservation of the universal and immutable rules of justice, we solemnly protest.

If the claimant indeed had not brought forward his claim when it was first interrupted, if he had not submitted it to the only tribunal which had jurisdiction to decide it, or if that tribunal when appealed to had in the first instance, and whilst witnesses to the transaction were living given judgment against him, which though never confirmed so as to become conclusive, had never been reversed, we should have considered the matter to be nevertheless concluded; but when on the contrary it appears beyond all controversy that the claimant did bring forward his claim of right at the earliest period, and when it was first interrupted; that that claim was not only twice adjudged in his favour by the Lords' Committees for Privileges, the only tribunal which by the forms and customs of Parliament had jurisdiction to examine it; when the evidence given before that Committee was not only found sufficient by it, but was so admitted by those public servants of the Crown who were appointed to contest his title; when those judgments of the Committees for Privileges were not only not reversed whilst witnesses were living who might have supported them, but were not impugned by either evidence or argument when repeatedly brought before the House, we protest against the application of length of time as an objection; since we find the claimant out of possession, not because he had not appealed to a competent tribunal until witnesses were dead who might have opposed his title, but because whilst witnesses were living, the tribunal to which he had appealed and which was alone competent to the decision, had contrary to all precedent and to every rule and principle of justice pertinaciously refused to decide.

Because if in 1661 Earl William's great age, the King's message to the House that he was childless, the first inquisition to the same effect (even if the second had never existed), the conveyances of all his hereditary property without notice of his children, the non-claim of Earl Nicholas, and the settlement upon him by Lord Vaux, describing him as some time or other bearing the name of his family; if all these circumstances had been urged against him at that period, we might admit without danger to the

argument that they might have been thought sufficient to repel the presumption of legitimacy, until sufficiently contradicted or explained by the claimant, or until intercourse between Earl William and his Countess had been proved as a fact, after the legal presumption of the fact had been overthrown, when the case was quite recent and the character of such circumstances must have been capable of scrutiny and explanation, with the utmost certainty and truth, it might fairly be considered that both law and reason would require them to be explained; but we contend, that both reason and law must equally pronounce, that when time has rendered all proof impossible, it is sufficient that they are capable of explanation, since by facts they can no longer be explained.

As to the King's message, he is now entitled to say, that Earl William, to maintain an untenable precedency which would have been lost to him, even for his life, if the birth of Earl Edward then only an infant, had been made public, might for that reason however dishonourably have concealed Edward and afterwards Nicholas during his life, which would terminate the motive; and that such concealment led to the first inquisition, corrected by the second, when the cause of the concealment was at an end, and that as both the inquisitions were equally supported by the oaths of witnesses, fraud at such a distance of time cannot justly be presumed: as to the conveyances he is entitled to say, at this distant period, that Earl William might have been pressed by incumbrances to alienate all his property, but which cannot now by any possibility be investigated; or that though he had had access to his Countess, he might have believed or suspected her commerce with Lord Vaux, and that his mind was thus aliened from his children; and as to the non-claim of the unalienable estate, he is fully entitled now to answer that the very objectors to his title make it the strength of their argument against it, that no opposition could in former times have been raised to it in the Courts, whose judgments depended as now upon the ultimate decision of the House of Lords, before which Court he repeatedly brought the claim of the Earldom, which he held by the very same title as the estate.

Because we have already said, and we repeat, that the force and value of these explanations cannot now be put in the scale

against the presumptions to which they are opposed; it is enough that they are possible, consistently with the facts on which the contrary presumptions are erected; since length of time, so unjustly objected against the claimant, has rendered it impossible to arrive by legal testimony at the facts.

Because in whatever manner these explanations ought to be received when opposed to the circumstances from whence the adverse presumptions have been derived, it cannot possibly be denied that all the circumstances so accumulated, or any circumstances whatsoever, would be laid prostrate before the proof of actual access; from which proof by length of time the claimant is also utterly cut off.

The circumstances relied on, even unexplained, could raise no other presumption than that of concealment; a presumption besides against the evidence in 1661, since the witnesses denied that they knew of Earl Nicholas being concealed or any cause of concealment, in which they might have been contradicted by hosts of living witnesses, if their testimony had been false.

Because concealment, even if it could now be justly presumed from circumstances against the proof at the original period, when it ought to have been established, could only repel the primary presumption of access, and could by no rule of law prevail against the fact of actual access; such a doctrine was never held nor even attributed to Lord Hale, nor to any other Judge; and although Earl Nicholas' counsel were not called upon in 1661 to prove it before the Committee, yet as far as the evidence extended, access rather than the contrary ought now to be collected from it; since it was sworn by Mary Ogden, and not contradicted, that Earl William visited Lady Banbury. She said, I know not whether Earl William knew that his Countess lay in, but he visited her; and to another question she answered, that the child was carried ordinarily up and down the house. Surely these answers (giving credit to the witness for honesty) which cannot now be disputed, their meaning not being changed by further examination, must be taken to have meant such visits from which the witness supposed he might have known of the delivery, though she could not swear that he did; and if he might have known of the delivery, he might have seen the child which was carried publicly about the house.

Because against such evidence by living witnesses accepted for any reason as sufficient in 1661, we protest against the accumulation of the circumstances relied on at the distance of a century and a half to raise the presumption even of concealment, much less of non-access, when the claimant, from no laches of his own, but by the acts of the very Court which has now rejected his title, has been prevented from the possibility of proving the fact, which it is admitted, if proved, would totally destroy their force and effect.

Because the resolution of the House of the 17th of March, 1692, that the petitioner Charles Knollys, who was the son and heir of the said Nicholas, had no right to the title of Earl of Banbury, was not a conclusive bar to the present claimant, inasmuch as it was not a claim to the inheritance of the Peerage brought forward by petition to the King, and referred by His Majesty to the House of Lords, according to the ancient forms and customs of Parliament, but a petition only by a person who considered himself as a Peer, to be tried as such upon an indictment for murder then depending against him, the rejection of which, though it might be conclusive against him personally as to the prayer of such petition, could not affect the succession so as to conclude his posterity.

Because there is no precedent upon record of any claim of peerage having ever been decided except upon petition to the Crown, referred to the House of Peers, according to the ancient customs and forms of Parliament, and because the law of the land, which is the birthright of the subject and which cannot be overruled by any privilege of the Lords when not duly exercised, gave judgment against that resolution of the House; we do not question that it is the privilege of the House to decide conclusively upon claims of Peerage; we only contend that this privilege ought to be exercised according to the forms and customs of Parliament, and that the Crown, which is the fountain of that high dignity, has a constitutional claim that the forms and customs of Parliament should be preserved in the decisions of the Peers.

Because the judgment of the Court of King's Bench, if erroneous, might have been reversed upon writ of error by the Lords themselves, the authority of whose resolution had been questioned by it; but although the House in the same temper which had unhappily characterised all its proceedings (at least

as we view them) upon the same subject, irregularly questioned at its bar the Lord Chief Justice Holt and his brethren, concerning the reasons of their decision, it received no other answer from those truly great and eminent judges, than that their judgment was only open to be corrected by the forms of the law, and it stands at this day uncorrected and unreversed.

Because the Lords by their own authority, or by address to his Majesty, might have directed the Attorney General to bring the judgment before them for reversal, as unduly bringing their resolution into question.

Because if the resolution of the House in 1692 ought not to be held conclusive against the inheritance of this peerage, it follows that it never could become so by the resolution of 1697, which amounted to nothing more than that the House put that conclusive construction upon its own former proceeding; but if the Lords had no jurisdiction by the law of the land to come to the first resolution, the second, which was only to declare its construction, must of course fall to the ground. We acknowledge and will assert as Peers, the authority and conclusive character of all judgments of the House upon such a question, duly entertained; but for that very reason, we feel ourselves bound upon our honours, to be the more jealous to confine them within the rules of law.

Because the resolutions in question of 1692 and 1697 were not considered as a conclusive bar to the claimant, either by the House in its preliminary proceedings, nor by the Committee in the debates leading to its final report. The late Attorney General, by his learned report to the King, not having considered the claim to be concluded, and his Majesty having referred the matter according to the forms and customs of Parliament, the House instead of making to his Majesty a similar communication to that made to King William in 1697, referred the petition of the claimant to the Lords' Committees for Privileges, heard his counsel and witnesses without even hinting any obstacle to a judgment according to the result of the evidence; and because even in the final debates, the resolutions were not much insisted upon as conclusive, if they could be shewn to be manifestly erroneous.

Because we agree to that mode of considering the resolutions,

and found our dissent upon manifest error; and protest against the judgments of the House, for the reasons which we have recorded, at such unusual length; because an unreasoned dissent would have thrown no light upon the grounds of a decision of vital importance in its consequences to the inheritance of the Peerage; and because it would have been unworthy to have discussed it partially, so as to bring into discredit the justice of the House, whose decisions it is our duty to reverence and to support.

Thomas Erskine, Lord **Erskine**.

Edward, Duke of **York**.

William Frederic, Duke of **Gloucester**.

Augustus Frederic, Duke of **Sussex**.

William Nelson, Earl **Nelson**.

Richard Barrè Dunning, Lord **Ashburton**.

Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

Francis Rawdon, Lord **Hastings and Rawdon** (Earl of Moira).

Henry Hood, Lord **Hood of Catherington**.

Thomas Dundas, Lord **Dundas**.

DXLII.

JUNE 21, 1813.

A number of resolutions, the purport of which was to confirm and extend the privileges of the East India Company, were introduced into the House of Commons by Lord Castlereagh and passed. They were subsequently forwarded to the Lords, in order that both Houses, in a conference to be held on them, might come to some agreement, and make them the basis of legislation. The issue of this joint action on the part of the two Houses was the East India Act, 53 George III, cap. 155. The subjoined protest was entered on the rejection of Lord Lansdowne's motion (by 49 to 14) to receive the report of the committee of the House on these resolutions, on that day three months.

1st, Because we think it manifest that these resolutions attempting to regulate unalterably for twenty years the government of the British territories in India, and the commerce of this country with the whole Eastern world, ought not to be adopted by Parliament, except after the maturest deliberation and fullest investigation of the subject.

2ndly, Because they have nevertheless been brought up to us only within these few days; several of them are entirely new to us; on many of the most important points which they embrace

we have no information whatever; and other objects which we believe essential to the discharge of our duty, both to our own country and to India, seem to us to have been wholly overlooked in the formation of this plan.

3rdly, Because we have learnt, with equal astonishment and concern, that in this situation, and in a case involving the happiness of millions, it is the intention of the proposers of this plan to urge and press forward during the short remainder of the present Session, not only the adoption of these resolutions, but also the enactment of a Bill for giving effect to them; resolutions, no one of which has ever before this day been debated in this House, and a Bill which cannot probably be read here, even for the first time, till the first or second week in July.

4thly, Because we see the strongest reason to doubt both the policy and the practicability of the measures which we are called upon to sanction with a precipitation so very unbecoming. Imperfectly as we are informed upon this plan, we cannot avoid perceiving that it is satisfactory to none of the interests concerned, but is considered by all as likely to prove injurious both to the commercial prosperity of our country, and to the welfare of our Indian subjects; it bears, we think, but too much the appearance of a weak and ill-considered compromise; intricate in operation, inconsistent in principle, ill calculated to ensure its professed objects, and most especially negligent of those for which it ought most carefully to have provided.

5thly, We object generally to the prevalent and increasing practice of postponing to the close of every Session all its most important and difficult business; and we are peculiarly unwilling to conclude the discussion of so extensive a subject as this, involving so many and such important interests, by precipitate decisions taken on insufficient grounds, and at a period when due deliberation is impossible, and when (such is the haste with which this measure is now pursued to its close, after so much procrastination in its production) a Bill appears by the votes of the other House to have been actually ordered in upon these resolutions, before any answer has been returned by this House to the communication in which our concurrence in them was desired.

Henry Richard Fox Vassall, Lord Holland.
Charles Grey, Earl Grey.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
Richard Grenville Brydges Chandos, Marquis of **Buckingham**.
James St. Clair Erskine, Earl of **Rosslyn**.
George Capel, Earl of **Essex**.
Hugh Fortescue, Earl **Fortescue**.
William Wyndham Grenville, Lord **Grenville**.

DXLIII.

JUNE 29, 1813.

In order to prosecute the European war with greater vigour after the disastrous retreat from Moscow, Lord Liverpool, in answer to a message of the Prince Regent sent on the 28th of June, moved for a vote of credit to the amount of £5,000,000. Lord Holland took the opportunity of pressing an addition to the address, in which the Regent was intreated to use the earliest opportunity of offering peace on just and reasonable terms. The amendment was negatived without a division, and the following protest inserted.

1st, Because the amendment, if adopted, would have left his Majesty's government unfettered by any opinion of this House as to the time, the terms, or the mode of treating for peace.

2ndly, Because in our present state of imperfect information a humble but firm representation of our hopes that no opportunity for negotiation might be improvidently neglected, appeared both prudent and necessary, when we were called upon to extend our confidence to persons, who, during a period of unexpected success had given no public proofs of a disposition to restore the invaluable blessing of peace.

The disastrous retreat of the French armies from Russia last winter, seemed to afford an opportunity of negotiating with dignity and success, and no overture made to the Emperor of France at that period has been communicated to Parliament, nor any reason publicly alleged for not resorting to such a measure. It would then have been easy to devise and honourable to propose such conditions of peace, as, without humiliating the pride, or interfering with the internal government of France, would, if acceded to, have secured the independence of all powers directly or indirectly allied with his Majesty, and would, if rejected, have exposed to the indignation of Europe the unjust pretensions of the enemy. Prudence and magnanimity concur in recommending moderation in the hour of success; and the truth of this maxim is painfully

proved in the present melancholy consequences of an opposite system of conduct. The omission of all public overtures for peace and of all distinct declarations of the object of the war, has obviously enabled our enemy to recruit his armies, to animate his people, and to retrieve his affairs by imputing to Great Britain and her allies designs which it was convenient to his purposes to suppose, but which it was the interest and duty of his Majesty's government by the most public and unequivocal acts to disclaim.

Henry Richard Fox Vassall, Lord Holland.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DXLIV.

JULY 16, 1813.

The following protest was entered against the second reading of the East India Company's Charter Bill.

Because I cannot consent to participate in the disgrace this House must incur, by presuming to pronounce, within forty-eight hours of its introduction, on the propriety of giving a second reading to a Bill sixty-seven pages in length, which, with a thorough contempt of every thing that could be considered as salutary in the resolutions the two Houses of Parliament had acceded to, regulates the intercourse with our Eastern possessions on principles in absurdity unparalleled.

Because, even the slightest examination of this Bill makes it apparent, that its enactments are no less repugnant to the political welfare of our Indian possessions, than subversive of those commercial principles on which the Company's trade can alone be conducted with any prospect of success; whilst they must render it utterly impossible for the merchants of this country, with prudence, to engage in that free trade with India which Government have professed by this measure to impart.

For by enacting, 'That a sum equal to the actual payment that has been made from the funds at home, on account of the territorial charges in the preceding year, shall in each and every year be issued in India, for the purpose of the Company's China and India investments, or of remittance to England,' this Bill, in truth, sanctions the utter ruin of our territorial possessions,

by providing that they shall be annually robbed of millions without a return; whilst by fixing the value to be yearly remitted from that country, without regard to the extent of European demand for its produce, it departs from every true principle of trade, and prescribes a rule which must be ruinous to the commercial interests of the Company; to those of the merchant, who is foolish and ignorant enough to participate in such a trade; and even to the welfare of our manufacturers of British muslins, and of all home-made articles, that naturally enter into competition with the commodities of the East.

Because the despoliation of our territorial possessions in India, the destruction of the commerce of the Company, as well as of the prospects of the free trader, and the injury our manufacturers must sustain, are not the only evils with which this Bill threatens the country.

For it discloses to the public the melancholy information, that instead of having any hope of now receiving from India that long-boasted financial aid the Bill of 1793 taught them to expect, Government anticipates the certainty of the people of this country being taxed, and of our resources being further exhausted, to suspend the ruinous crisis our erroneous policy in the management of our Indian possessions must ultimately occasion; as it enacts, 'That the residue of the Bills drawn in England shall, in the event of the Company's not possessing sufficient funds, be discharged in such manner as Parliament shall from time to time provide.'

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DXLV.

MAY 10, 1814.

By certain engagements entered into between Bernadotte, the Emperor Alexander, and the Cabinet of Great Britain, Norway was transferred from Denmark to Sweden, the English Government pledging itself to use force in order to effect the unwilling submission of the Norwegians. The Danish Government ratified the union. But the Norwegians took up arms in defence of their liberties, elected Prince Christian, son of the King of Denmark, as their King, and though they were overpowered at last, succeeded in obtaining very favourable terms,—see Alison, chap. xcii, who gives his justification of the attitude taken by the British

Government. The opposition to the Government was taken by Earl Grey, who moved an address to the Regent, praying him to intercede in the struggle in favour of Norwegian independence. His motion was defeated by 115 to 34, and the following protest was entered.

Because we consider the attempt to subjugate Norway to the crown of Sweden as a manifest violation of the sacred rights of national independence; and we cannot reconcile ourselves to combat in this case the same principles, in defence of which his Majesty and his allies have, in the case of the other nations of Europe, so gloriously and successfully contended.

Because it was contended in debate, and to our apprehension not sufficiently answered, that even if such an engagement could be considered as lawful, the conditions of our treaty with Sweden had no view to the resistance of the people of Norway to the proposed cession of their country by Denmark, and did not bind us by any obligation of good faith to assist in reducing by force that unoffending and independent people.

Because we cannot see, without the deepest regret, the employment of the British flag to inflict upon a people, whose friendship it is the natural policy of this country to cherish and cultivate, the dreadful calamities of famine, for the purpose of enforcing so odious and unjustifiable a project.

Augustus Frederic, Duke of **Sussex**.

John Bligh, Lord **Clifton** (Earl of Darnley).

William Frederic, Duke of **Gloucester**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

Charles Grey, Earl **Grey**.

George Capel, Earl of **Essex**.

Henry Richard Fox Vassall, Lord **Holland**.

William Wyndham Grenville, Lord **Grenville**.

Charles Stanhope, Earl **Stanhope**.

James St. Clair Erskine, Earl of **Rosslyn**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

Charles Howard, Duke of **Norfolk** (Earl Marshal).

DXLVI.

JUNE 18, 1814.

By 54 George III, cap. 69, the grant of bounties on the exportation of corn and the levy of duties on the same process was brought to an end. An attempt was made to prohibit exportation in times of scarcity

at the instance of Lord Stanhope, and by Lord Lauderdale to retain the bounties. Both amendments were rejected without a division.

The following protest was entered.

1st, Because the abolition of all bounties on the exportation of Grain, without any enquiry, at a time, when, in compliance with the request of a numerous body of petitioners, a committee has actually been appointed to investigate the effects of our present system of legislation, both on the interests of the growers and of the consumers of Grain, appears to me to be an act of the grossest inconsistency.

2ndly, Because the system of granting bounties on the exportation of Grain, thus uncautiously abandoned, must be eminently advantageous in securing the important object of equalizing the price of that which forms the chief article of subsistence.

All sound principles of theory concur in shewing that such a bounty must tend to enable the farmer of this country to undersell foreigners; that the demand for his commodity must be thereby increased; that he must therefore be encouraged to raise a greater quantity of grain than would otherwise be produced; and consequently, that in years of scarcity, by prohibiting exportation, this country may acquire a supply at a moment it is least likely to receive aid from importation, which cannot fail to prevent that occasional extreme rise in the value of subsistence, so destructive of the limited comforts of the poorer orders of the community.

From the experience of past times it is also evident that this actually was the happy effects of a bounty on the exportation of Grain: for during the continuance of an efficient bounty, from the year 1697 to the year 1757, this country was amply supplied with Grain; even in years of scarcity, without foreign aid, by exportation having been three several times prohibited, in 1699, 1709, and 1741, for the purpose of securing to the home consumer the extra produce which the bounty had created; and the price of wheat, during the last thirty years of that period, whilst it never fell below £1 2s. 1d. per quarter, at no time rose above £2 8s. 5½d. per quarter.

It does therefore appear to me that the premature declaration made by this Act of the inexpediency of those bounties on the exportation of Grain, which for more than a century have formed a conspicuous feature of the system we are about to investigate, must

be regarded by the public as highly rash and injurious ; and in this opinion I am confirmed, by contemplating the great importation of Grain, as well as the rise and extreme fluctuation in the price of Wheat, that has taken place within the last thirty years, when the alteration in the value of money had rendered the bounties inefficient : for the lowest price of Wheat, during this term of years, being £2 2s. 2½d. is nearly equal to the highest price of Wheat per quarter during the thirty years already alluded to, in which an efficient bounty was given ; whilst, notwithstanding a great and constant foreign importation, the poor have suffered from Wheat occasionally rising to the unprecedented value of £6 8s. 0d. per quarter.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DXLVII.

JUNE 27, 1814.

A number of petitions were presented on this day against the continuance of the Slave Trade, provision not having been taken in the treaty just concluded with France to put a stop to it. Mr. Wilberforce, in the Commons, and Lord Grenville, in the Lords, called attention to the omission. Wilberforce was successful in carrying his address in the Commons, but Lord Grenville's was rejected in the Lords by 62 to 27. See Hansard, vol. xxviii, p. 299.

The following protest was entered.

1st, Because in the article of the treaty of peace lately concluded at Paris, respecting the African Slave Trade, a public interest of the first importance has been sacrificed, and as we firmly believe without any necessity or adequate cause, this inhuman traffic being, under the sanction of that article revived and continued in the colonies which we have surrendered to France for the term of five years ; and an immense district on the continent of Africa which had been entirely relieved from it, again exposed to all the evils which must flow from its re-establishment.

2ndly, Because deeply impressed with the horrors of a commerce which the humanity of the Legislature had prohibited, and which is described in the article above referred to as repugnant to the principles of natural justice and of an enlightened age, this House had unanimously addressed His Royal Highness the Prince Regent to employ the whole weight and influence of this country, in the late

negotiations for peace, to procure its general and entire abolition, and because it is incumbent on Ministers to shew from what causes the endeavours which it was their duty to make for the attainment of this important object have failed under circumstances which were undeniably most highly favourable to their success.

3rdly, Because this proof can only be given by the production of the papers which have passed during the late negotiation upon this subject, as was admitted to be usual in cases of failure, and because no sufficient reason for withholding such information in the present instance was given in the debate.

Augustus Frederic, Duke of **Sussex**.

William Frederic, Duke of **Gloucester**.

Charles Grey, Earl **Grey**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

William Wyndham Grenville, Lord **Grenville**.

Henry Richard Fox Vassall, Lord **Holland**.

Augustus Frederic Fitzgerald, Viscount **Leinster** (Duke of Leinster).

DXLVIII.

NOVEMBER 8, 1814.

The Speech from the Throne alluded to the war which was being carried on with the United States, commented on the events which had occurred, and asked for supplies in order that the campaign, signalised by the capture of Washington, might be prosecuted with vigour. The Address, which was as usual an echo of the Speech, was moved and seconded by Lords Abingdon and Delawarr. It was opposed by Lord Grenville, but was carried without a division. The following protest was entered.

Because we cannot approve the language of this address, or that warlike spirit and character by which we think it too plainly characterized. In its expressions of concern for the continuance of his Majesty's indisposition, and of respect and duty to His Royal Highness the Prince Regent, we willingly concur. But we see with the deepest grief, that instead of affording to our country, after all its exertions, any hope of reduced expenditure and diminished burthens, the Session opens with the intimation of fresh expences, and the demand of new sacrifices.

And we think it peculiarly necessary to mark with the strongest disapprobation the omission of all communication from the Throne to Parliament of the extraordinary measure of keeping up in time of peace a large army of British and foreign troops in British pay

upon the Continent of Europe. This is in itself a step which we think hardly any circumstances could warrant. But we are certain that whatever necessity might call for it, whatever expediency might justify it, such a measure required the most distinct authority and sanction of Parliament, as the only means of preventing it being made a precedent for innovations subversive of every principle of the British Constitution.

William Wyndham Grenville, Lord Grenville.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

George Capel, Earl of Essex.

Richard Hely Hutchinson, Earl of Donoughmore.

DXLIX.

MARCH 13, 1815.

The Government contemplated legislation on the Corn Laws, and was engaged in passing a Bill on the subject through the Commons. Meanwhile petitions were presented against the Bill, and notably from the city of Westminster and the town of Liverpool, signed by more than 40,000 persons in each case. In the Lords, Earl Grey made a motion for 'a further enquiry relative to the state of the growth, commerce, and consumption of Grain, and the state of the laws relating thereto.' He was supported by Lord Derby and others, but the motion was rejected by 124 to 18.

The following protest was entered.

Because enquiry has been deemed necessary to afford this House full information respecting the state of the growth, the commerce, and the consumption of Grain, and all laws relating thereto, previous to the adoption of any new regulation on these subjects.

Because, though a Committee has been appointed for the purpose of such enquiry, and has produced a voluminous report, containing much information respecting the matters referred to their consideration, it is acknowledged in that report that the investigation is not complete, and it is anticipated as the opinion of this House, that it will be proper to resume the enquiry before any alteration takes place in the laws affecting the interests both of the growers and consumers of Corn.

Because, with the obvious deficiency of information thus acknowledged in the report of the Committee itself, and with the strong doubts which so many persons entertain as to the propriety of making any change in the existing laws, we cannot think it

expedient to proceed to legislate upon a subject which of all others requires the fullest and most patient investigation, and in which the mischief of any error must be so extensive and dangerous.

Augustus Frederic, Duke of **Sussex**.
 William Frederic, Duke of **Gloucester**.
 Charles Stanhope, Earl **Stanhope**.
 George Capel, Earl of **Essex**.
 Peter King, Lord **King**.
 George Byng, Viscount **Torrington**.
 William Wyndham Grenville, Lord **Grenville**.
 Charles Grey, Earl **Grey**.

DL.

MARCH 20, 1815.

The Corn Law of 1815 (55 George III, cap. 26) contains twelve clauses, of which the most important are the first, permitting corn to be warehoused at any time; and third, allowing foreign corn to be brought into the English market free of duty when Wheat should be at 80s., Rye, Peas and Beans, 53s., Barley, Bere and Bigg, 40s., and Oats 27s. a quarter, but not allowing importation when prices are lower, and fixing Colonial prices at 67s., 44s., 33s., and 22s. Numerous petitions (161) were presented against and for the Bill, the vast majority being hostile. It was opposed in the Lords and Commons, but carried by large majorities. On the third reading its rejection was moved by Lord Stanhope and the Marquis of Buckingham, but the Bill was carried by 128 to 21.

The following protest was inserted.

1st, Because we are adverse in principle to all new restraints on commerce. We think it certain that public prosperity is best promoted by leaving uncontrouled the free current of national industry; and we wish rather, by well-considered steps, to bring back our commercial legislation to the straight and simple line of wisdom, than to increase the deviation, by subjecting additional and extensive branches of the public interest to fresh systems of artificial and injurious restriction.

2ndly, Because we think that the great practical rule of leaving all commerce unfettered, applies more peculiarly, and on still stronger grounds of justice as well as of policy, to the Corn trade than to any other. Irresistible indeed must be that necessity which could, in our judgment, authorise the Legislature to tamper with the sustenance of the people, and to impede the free purchase and

sale of that article, on which depends the existence of so large a portion of the community.

3rdly, Because we think that the expectations of ultimate benefit from this measure are founded on a delusive theory. We cannot persuade ourselves that this law will ever contribute to produce plenty, cheapness, or steadiness of price ; so long as it operates at all, its effects must be the opposite of these. Monopoly is the parent of scarcity, of dearness, and of uncertainty. To cut off any of the sources of supply, can only tend to lessen its abundance ; to close against ourselves the cheapest market for any commodity, must enhance the price at which we purchase it ; and to confine the consumer of corn to the produce of his own country, is to refuse to ourselves the benefit of that provision which Providence itself has made for equalizing to man the variations of season and of climate.

4thly, But whatever may be the future consequences of this law at some distant and uncertain period, we see with pain that these hopes must be purchased at the expense of a great and present evil. To compel the consumer to purchase Corn dearer at home than it might be imported from abroad, is the immediate practical effect of this law ; in this way alone can it operate ; its present protection, its promised extension of agriculture, must result (if at all) from the profits which it creates by keeping up the price of Corn to an artificial level : these future benefits are the consequences expected, but, as we confidently believe, erroneously expected, from giving a bounty to the grower of Corn, by a tax levied on its consumer.

5thly, Because we think that the adoption of any permanent law for such a purpose required the fullest and most laborious investigation. Nor would it have been sufficient for our satisfaction, could we have been convinced of the general policy of so hazardous an experiment ; a still further enquiry would have been necessary to persuade us that the present moment was fit for its adoption. In such an enquiry, we must have had the means of satisfying ourselves what its immediate operation will be, as connected with the various and pressing circumstances of public difficulty and distress with which the country is now surrounded ; with the state of our circulation and currency ; of our agriculture and manufactures ; of our internal and external commerce ; and above all, with the con-

dition and reward of the industrious and labouring classes of our community.

On all these particulars, as they respect this question, we think that Parliament is almost wholly uninformed ; on all we see reason for the utmost anxiety and alarm from the operation of this law.

Lastly, because if we could approve of the principle and purpose of this law, we think that no sufficient foundation has been laid for its details. The evidence before us, unsatisfactory and imperfect as it is, seems to us rather to disprove than to support the propriety of the high price adopted as the standard of importation, and the fallacious mode by which that price is to be ascertained.

And on all these grounds we are anxious to record our dissent from a measure so precipitate in its course, and, as we fear, so injurious in its consequences.

Augustus Frederic, Duke of **Sussex**.

William Frederic, Duke of **Gloucester**.

William Wyndham Grenville, Lord **Grenville**.

Richard Colley Wellesley, Lord **Wellesley** (Marquis of Wellesley).

George Capel, Earl of **Essex**.

George Byng, Viscount **Torrington**.

Alexander Hamilton, Lord **Dutton**.

Richard Grenville Brydges Chandos, Marquis of **Buckingham**.

Henry Bromley, Lord **Montfort**.

Peter King, Lord **King**.

Frederic Howard, Earl of **Carlisle**.

DLI, DLII.

FEBRUARY 19, 1816.

On this day a motion was made for an address to the Prince Regent, thanking him for the information given as to the Peace of Paris on the 20th of November, and advising and approving the policy which the Ministry had adopted. The following address, however, was moved in substitution (Lords' Journals, vol. 1, p. 450), 'That an humble address be presented to his Royal Highness the Prince Regent, to assure his Royal Highness, that after so long a period of the most sanguinary revolutions and wars, no event could be more gratifying to our feelings than the re-establishment of universal tranquillity, and no wish nearer to our hearts than the permanence of a blessing so ardently desired, and so dearly purchased ; but that in proportion to our solicitude for the continuance of peace is the anxiety and alarm with which we view the means adopted for its security, by continuing to maintain in arms a great allied force, and by holding in military occupation the frontier of one of the Powers so lately belligerent : in these stipulations we recognize nothing of a pacific character ; to our

minds this measure still presents the fearful image of war, suspending indeed for a time its ravages, but prepared at every moment to renew them with increased activity; it tends, we fear, to keep alive and inflame every hostile passion, and to prolong the animosity of an enemy overpowered but not weakened, humiliated but not reconciled; these precautions, professedly temporary, have indeed provided nothing for permanent security; they expose to the greatest hazards that union by which alone our deliverance was achieved; and by an unexpected call for continued exertions and fresh sacrifices, they aggravate everywhere that dreadful pressure which has already nearly weighed down all the European nations. Under any circumstances, and for any purposes, we should deeply have lamented that our times should be the first doomed to witness the new spectacle of the assembly and maintenance of such a force, as the necessary and stipulated accompaniment of a treaty of general pacification; from the cordial co-operation of the allies, and from the brilliant successes of their arms, we had indeed cherished other hopes; every motive both of justice and of prudence required, as we thought, the limitation of the power of France, proved by reiterated experience so formidable to the liberties of Europe. When this had been effected, we trusted that a great reduction would have been agreed upon, by general consent, in those enormous and disproportionate military peace establishments, which, during the last century, a jealous and most improvident competition had carried almost universally to an extent destructive of the best interests of civil society: next to the cessation of actual warfare, such an agreement as this was the highest benefit which peace could have conferred upon Europe; the best pledge of the mutual union and confidence of her Sovereigns, the best reward for the merits and the sufferings of their subjects. To originate, to recommend, to accomplish a concert of such great and universal advantage, would have been the utmost glory to which, in these negotiations, Great Britain could have aspired: it was consonant to the long usage of our Government, to the moral feelings of our people, to the pressing calls of our financial system, and above all, to the fundamental principles upon which alone our Constitution stands. We see, then, with the most profound affliction, that instead of successfully urging this policy on others, we have now ourselves abandoned it: we cannot repress our own feelings, and we judge from them the feelings of our country, when called upon to concur in carrying the opposite principle to an extent hitherto unthought of, even in the most military governments; maintaining in peace, and in the territories of a foreign Power, a great military force in constant preparation for action. We humbly assure his Royal Highness, that we shall at all times be most anxious to support and uphold the high station of our country in the eyes of the surrounding nations; but we beg leave to represent, that this station never has been that of one of the great military powers of Europe. It is by a contrary system that we have risen to prosperity and greatness: these are, under Providence, solely to be ascribed to the influence of a Government founded in freedom, and maintained by the arts and institutions of peace: we know not how a great and permanent military establishment, continued after the termination of the war for which

alone it was created, can ever be made consistent with the principles of such a Constitution, or the security of such a Government; history affords no such example, and in our own country the experiment has never before been attempted; the happy advantages of our situation, and our sedulous attention to the sources of maritime defence, have hitherto preserved us from it: to prevent any such necessity was among the most powerful of the motives for all our exertions and all our sacrifices, and urgent indeed must be the reasons which could now reconcile us in victory and triumph to the adoption of that very system, to avert which we did not hesitate to hazard our existence.' The debate is to be found in *Hansard*, vol. xxxii, p. 634. The amendment, moved by Lord Grenville, was rejected by 104 to 40, and the address agreed to. The following protest was inserted.

For the reasons stated in the amendment itself, which we are desirous of recording as a memorial of our opinions on this question, considering it as of the highest importance not only to the political interests of our country, but also to the security of its Constitution and Government.

Augustus Frederic, Duke of **Sussex**.
George Child Villiers, Earl of **Jersey**.
George Capel, Earl of **Essex**.
William Wyndham Grenville, Lord **Grenville**.
Henry Fitzmaurice Petty, Marquis of **Lansdowne**.
John Russell, Duke of **Bedford**.
Thomas Graham, Lord **Lynedoch**.
Henry Bromley, Lord **Montfort**.
Henry Richard Fox Vassall, Lord **Holland**.
William Wentworth Fitzwilliam, Earl **Fitzwilliam**.
James St. Clair Erskine, Earl of **Rosslyn**.
Peter King, Lord **King**.

Because the treaties and engagements contain a direct guaranty of the present Government of France against the people of that country, and in my judgment imply a general and perpetual guaranty of all European Governments against the governed.

I hold such a design to be unlawful; I believe it to be impracticable; and recollecting the principles on which the Revolution of 1688, and the succession of the House of Hanover, were founded, I cannot give the sanction of my vote to a system which, if it had prevailed in those times, might have deprived this Kingdom of all the benefits which have resulted from a national Government, and a free Constitution.

Henry Richard Fox Vassall, Lord **Holland**.

DLIII.

APRIL 8, 1816.

The Government brought in a Bill, afterwards carried into a law, 56 George III, cap. 22, for detaining the Emperor Napoleon at S. Helena. This was objected to by Lord Holland on the ground principally that it was not the business of England to undertake the duty of dealing with the fallen Emperor. He also thought the action ungenerous, and he was of opinion that the judges ought to be consulted on certain questions which arose out of the proceeding. Lord Holland's motion for the opinion of the judges was negatived without a division.

He then recorded his protest.

Because, without reference to the character or previous conduct of the person who is the object of the present Bill, I disapprove of the measure which it sanctions and continues.

To consign to distant exile and imprisonment a foreign and captive chief, who, after the abdication of his authority, relying on British generosity, had surrendered himself to us in preference to his other enemies, is unworthy the magnanimity of a great country. And the treaties by which after his captivity we bound ourselves to detain him in custody at the will of sovereigns to whom he had never surrendered himself, appear to me repugnant to the principles of equity, and utterly uncalled for by expedience or necessity.

Henry Richard Fox Vassall, Lord Holland.

DLIV.

MAY 22, 1816.

Lord Holland moved the repeal of so much of 10, 11 William III, cap. 23, as inflicted the penalty of death on the crime of stealing in a shop above the value of five shillings. He was opposed by the Chancellor (Lord Eldon) and Lord Ellenborough, and his Bill was rejected.

The following protest was inserted.

1st, Because the statute proposed to be repealed, appears to us unreasonably severe, inasmuch as it punishes with death the offence of stealing property to a very inconsiderable amount, without violence, or any other circumstance of aggravation.

2ndly, Because to assign the same punishment for heinous crimes and slight offences, tends to confound the notions of right and wrong, to diminish the horror atrocious guilt ought always

to inspire, and to weaken the reverence in which it is desirable that the laws of the country should be held.

3rdly, Because severe laws are, in our judgment, more likely to produce a deviation from the strict execution of justice than to deter individuals from the commission of crimes, and our apprehension that such may be their effect is confirmed, in this instance, by the reflection that the offence in question is become more frequent, and the punishment, probably on account of its rigour, is seldom or never inflicted.

4thly, Because the value of money has decreased since the reign of King William, and the statute is consequently become a law of much greater severity than the Legislature which passed it ever intended to enact.

William Frederic, Duke of Gloucester.

Augustus Frederic, Duke of Sussex.

Henry Richard Fox Vassall, Lord Holland.

Henry Fitzmaurice Petty, Marquis of Lansdowne.

DLV.

JUNE 19, 1816.

On this day Earl Grey moved the second reading of a Bill, by which it was intended to make the real estates of persons dying in debt, in default of personal assets, liable for simple contract debts. Among other arguments in favour of the Bill, Lord Grey referred to the hardship caused by trustees purchasing estates with the personal property of infants, the heirs of those trustees being protected from the consequences of this fraud, and the infants being reduced to indigence. The Bill was opposed by Lord Redesdale, on the plea that 'it would alter the possession of landed property in a way that would be most injurious to the Constitution.' It appears that the motion to read the Bill that day three months was carried without a division. The following protest was entered.

Because it is highly inexpedient and unjust that persons who have contracted debts, and have the means of paying them, should be allowed at their deaths to transmit to their heirs, or to their devisees, the secure enjoyment of their property, while by the non-performance of their engagements their unsatisfied creditors may be reduced to bankruptcy and ruin; and this injustice is the more flagrant in the case of a trustee, who having employed the money entrusted to him in the purchase of real estates, may

transmit to his representatives the fruits of his violated trust, whilst the orphans or others whom his conduct may have reduced to indigence, are left without remedy or resource.

Charles Grey, Earl Grey.

DLVI.

JUNE 21, 1816.

The first step taken for the resumption of cash payments was the calling in of the old silver currency and the establishment of the new silver on a new basis, 56 George III, cap. 68. The old silver was purchased at its nominal value. The Bill was read a third time on the 21st of June, when the following protest was entered. See Tooke's *History of Prices*, vol. ii.

1st, Because the Bill, which has now been read a third time, sanctions a plan for the future regulation of the metallic currency of this country, founded on very erroneous views of that important subject. Gold coin, according to this new system, is to be the only money in which a legal tender can be made for any sum exceeding 42s.; and thus, in contempt of the opinion of Mr. Locke, Sir William Petty, Mr. Harris, and of almost every other respectable authority, the coin made of that metal is constituted the measure of value, and the means of conducting all exchanges throughout the Empire.

2ndly, Because no reasonable ground has been assigned in debate for this preference of gold as the material of money.

It has indeed been stated,

1. That gold, as of superior value, is the proper measure of value for this opulent country; whilst silver, as of inferior value, is the more proper measure of value for a poor country.
2. That gold is less variable in its value from day to day; and therefore fitter for the material of money.
3. That the prevalence of gold in circulation, during the last century, proves the natural inclination of the people in the state of society in which we exist, for that species of money.

To me however it appears,

1. That to argue that the increased wealth of a country requires a measure of value formed of a more valuable

material, is as absurd as it would be to state, that, in proportion as our manufacture of cloth is encreased, the dimensions of our yard ought to be extended.

2. That in this country, where gold, from our mint regulations, has been for some time past practically the measure of value, and silver the thing to be measured, gold must have had the appearance of sustaining more rapid variations in value than silver; just as in France, where silver being the measure of value, and gold the thing to be measured, gold appears more variable in its value than silver; and that there is therefore no real ground for preferring gold to silver, as less variable in its value from day to day.
3. That to ascribe the prevalence of gold coin to its being more acceptable to the people, is in itself ridiculous. Men have no preferences upon these subjects, but what are dictated by views of interest; and the history of our mint regulations discloses, that in the year 1717, when the relative value of gold and silver coin was last settled by proclamation, Sir Isaac Newton predicted, that the denominative value of the gold, in proportion to its intrinsic or marketable value, being greater than that of the silver coin, it was impossible the latter could remain in circulation; an opinion which is proved to be true by the experience of what we have since seen; for all the lawful silver coin has, for more than half a century disappeared, and the people have had no opportunity of selection, there existing nothing but gold coin in which a legal tender could be made.

3rdly, Because I am of opinion, that there are many advantages which concur to recommend perseverance in the ancient regulations of the mint of this country, which regarded silver as the proper material of that coin, to be by law constituted the measure of value, and the means of making legal tenders of payment.

1. Silver coin is harder, and less subject to wear than gold coin, therefore better qualified for the general currency of the country.
2. There is less temptation by mechanical or chemical operations, fraudulently to diminish its value; for the profit to be

made by abstracting a grain from the weight of a coin of gold, must be fifteen times the amount of what can arise from a similar fraud with respect to silver coin.

3. It is certain, that the only means of securing the purity of all the coin in circulation, is to adopt silver coin as the measure of value, and the sole legal tender of payment. In this country, where gold, from the regulations of our mint, has long been, in fact, the measure of value, it does not require reasoning to prove, that if gold is the measure of value, silver coin, however debased, will circulate to mark the fractional parts of that gold coin, purely on the principle of convenience; for it was stated in evidence before the Bullion Committee, that, on this principle, even a premium was given for £100 of silver coin, the purchaser of which knew that its intrinsic value was not £60. But if silver was the measure of value, bad gold could never circulate from matter of convenience, for it is obvious that no motive can be assigned which could induce any man to give £101 for one hundred pounds worth of gold coin not intrinsically worth £60. If then silver coin was adopted as the measure of value, the law would secure the purity of that coin which exclusively formed a legal tender, whilst the interests of individuals, and the circumstance of its being allowed to take its value in circulation, would sufficiently secure the purity of our gold coin.
4. By rejecting silver coin as a measure of value, you at once deprive this great mercantile country of the possibility of having a par of exchange with any part of Europe, where, generally speaking, silver coin is exclusively the measure of value; for, if gold coin is to be the legal tender in this country, whilst silver is a legal tender in others, the par of exchange must depend, not only on the balance of remittances, but must be subject to the daily fluctuations arising from the variations in the value of these several metals.

4thly, Because in the present moment of our financial distress, and of the sufferings of the people from excessive taxation, the

conduct of government in undertaking a measure, which must involve the treasury in a great expense, and inflict, even on the lowest and poorest orders of the impoverished people of this country, a grievous burden, appears unaccountable; yet these cannot fail to be consequences of now decrying and throwing out of circulation the coin which Parliament has so long suffered to remain in circulation.

5thly, Because, under these circumstances I must be of opinion, that even if the success of this measure was certain, and the projected coin sure of remaining in circulation, it would have been prudent and advisable to delay the undertaking, till the agricultural and manufacturing interests of the country were better able to sustain the burden to which they must be subjected by this reform in the system of our coinage; and I cannot find terms sufficiently strong to express the sense of the criminal rashness of hastily adopting such a project, at a time, when both authority and reason combine to enforce the opinion, that the new coin cannot remain in circulation; and that after the vexatious suffering to which the people must be exposed, the attempt will prove abortive.

From authority we learn, 'That no system of coinage can be adopted with any prospect of permanent advantage, till some regulations have been made for remedying the evils resulting from the present state of paper currency;' and yet this arrangement is brought forward at a time when Parliament has been persuaded to continue for two years that unfortunate system of paper currency which is described by the late Earl of Liverpool in the foregoing extract from his letter to the King on the coins of the Realm, as likely to render any regulations of our coin of no permanent advantage.

By reason and experience we are taught, that two coins of the same metal, varying even in a small degree in the proportion betwixt their real and denominative value, cannot remain in circulation together, as that which possesses the greatest real value must always be withdrawn from circulation; yet it is now intended to throw from circulation this new silver coin, of which

- 5s. 6d. is to be made out of an ounce of silver, with tokens of the Bank of England, of which 6s. 8d. is fabricated out of the ounce of silver, and with tokens of the Bank of Ireland, of which

7s. 3d. is coined out of one ounce of silver; and that without any provision to impede these banks from continuing to fabricate and issue these tokens to any amount.

Again by reason and experience we are taught, that if coin of different metals is thrown into circulation, varying in the proportion betwixt their real and denominative value, that which is of greatest value has always disappeared. Thus, in the course of the last century, twenty-one shillings of lawful silver coin being of intrinsic or market value nearly 4*d.* more than a guinea, we know that all lawful silver money vanished from circulation; and yet it is now expected that our gold coin will remain in circulation, though a guinea will, under this new plan, possess considerably more real value than twenty-one shillings of our new silver coin.

Lastly, by reason and experience we are taught, that an over-issue of paper money, by depreciating the paper, raises the market price of the metals of which coin is formed, to a degree that makes it profitable to withdraw them from circulation; and that where this is the case, coin has uniformly disappeared. Yet the projectors of this plan think it safe to put the nation to a great expense, and to impose great burdens upon the people, when they know, that they have made it necessary for the Bank of England to extend its circulation by the sums they have borrowed from that establishment, and when they must be aware that it is in the power of the Banks of England and Ireland, of 642 different banking establishments in England, and of numerous co-partnerships in Scotland and Ireland to extend their issues of paper to any degree, which a consideration of their own interests may sanction; and thus to render abortive this new system for which the people of this country will have paid so severely.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DLVII.

JULY 1, 1816.

The first Act giving powers to a company for the supply of gas to the streets of the metropolis was passed in 1810, 50 George III, cap. 163. The company was created by charter dated the 30th of April, 1812, and its powers were enlarged by 54 George III, cap. 116. As the

inhabitants of London and Westminster wished to use the company's gas in private dwellings and in shops, the company applied for an extension of their powers of raising capital, and for a term during which the company should exist. When the Bill was read a third time in the Lords, an attempt was made to insert a schedule of prices, by which the company should be limited. This, the proposal of Lord Lauderdale, was rejected by 16 to 10. The Bill itself was carried by a majority of one, 16 to 15.

The following protest was inserted.

1st, Because in reading this Bill a third time, this House appears to me to have acted in violation of every principle which ought to guide the conduct of Parliament in deciding on Bills for instituting joint stock corporations or for augmenting their capital.

2ndly, Because in giving their assent to this Bill this House must be regarded as sanctioning an opinion that the Gas Light Company is not at present bankrupt; though it must be apparent on an inspection of the evidence given and of the accounts produced by their secretary, their first clerk, and their engineer, before the committee of this House, that after having expended £189,000 of their capital of £200,000, they are conducting a ruinous trade.

3rdly, Because this House by agreeing to this Bill, must encourage the people of this country to embark their fortunes in a speculation in which it appears to me after the most deliberate consideration of the evidence given in the committee that no intelligent man can doubt that each adventurer must lose the whole of what he has subscribed and all that he may under the authority of this Bill choose to subscribe.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DLVIII.

FEBRUARY 24, 1817.

On the 3rd of February the Prince Regent sent a message to the Lords informing them of certain practices, meetings, and combinations in the metropolis, and other parts of the kingdom, which were calculated to endanger public tranquillity, to alienate the affections of his Majesty's subjects, and to bring into hatred and contempt the whole system of our laws and institutions. An address was presented the next day, and on the 6th of February a ballot was taken of eleven Lords to enquire into these meetings and combinations, the choice falling on the Chancellor

(Eldon), the President of the Council (Lord Harrowby), the Dukes of Bedford and Montrose, Earls Fitzwilliam, Liverpool, Powis, and St. Germans, Viscount Sidmouth, and Lords Grenville and Redesdale. The Committee reported on the 18th of February, to the effect that Communistic combinations existed in London and other places, that meetings of the disaffected had been held in open fields; and fasten the attack made on the Prince Regent at the opening of Parliament on the agitators. It is noteworthy that a petition for Parliamentary reform, couched in very strong language, was presented to the Lords on the same day, from the Lord Mayor, Aldermen, and Livery of the city of London. The report of the Committee was commented on in a petition presented on the 24th of February by Lord Holland, from Henry Hunt, one of the movers of the Spa Fields petition of the 2nd of December, and its allegations were denied. The Government introduced a Habeas Corpus Suspension Bill in the Lords, and a Seditious Meetings Bill in the Commons (57 George III, cap. 3, and cap. 19). The second reading of the former, after a vigorous debate (*Hansard*, vol. xxxv, p. 551) was carried by 150 to 35. It was passed the same day.

The following protest was inserted.

Because it does not appear to us, that in the report of the Secret Committee there has been stated such a case of imminent and pressing danger as may not be sufficiently provided against by the powers of the Executive Government under the existing laws, and as requires the suspension of the most important security of the liberty of the country.

Augustus Frederic, Duke of **Sussex**.

Charles Grey, Earl **Grey**.

John Russell, Duke of **Bedford**.

Richard Colley Wellesley, Lord **Wellesley** (Marquis of Wellesley).

William Charles Keppel, Earl of **Albemarle**.

Sackville Tufton, Earl of **Thanet**.

Thomas Foley, Lord **Foley**.

Robert Grosvenor, Earl **Grosvenor**.

George William Campbell, Lord **Sundridge** (Duke of Argyll).

George Eden, Lord **Auckland**.

William Arden, Lord **Alvanley**.

St. Andrew St. John, Lord **St. John of Bletsoe**.

Henry Bromley, Lord **Montfort**.

Gregory William Twisleton, Lord **Say and Sele**.

George Capel, Earl of **Essex**.

James St. Clair Erskine, Earl of **Rosslyn**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

Henry Richard Fox Vassall, Lord **Holland**.

DLIX.

MARCH 3, 1817.

The House of Commons made certain amendments in the Habeas Corpus Suspension Bill, which came before the Lords on the 3rd of March. One of these was the power given to the Government to change, at its discretion, the place of the prisoner's detention. Lord Holland moved that the Bill be read that day three months, but his amendment was negatived without a division.

The following protest was entered.

Because we concur entirely in the reasons stated in the protest entered against the second reading of the said Bill on the 24th of February last; and because the delay which has taken place since the Bill has been hurried through this House, contrary to its established forms and standing orders, (in consequence of which unbecoming haste the amendments have been found necessary,) has confirmed and encreased our conviction that this measure, which necessity alone can justify, is without any such justification.

John Bligh, Lord Clifton (Earl of Darnley).

Augustus Frederic, Duke of **Sussex**.

Henry Richard Fox Vassall, Lord **Holland**.

Edward Adolphus Seymour, Duke of **Somerset**.

DLX.

MARCH 25, 1817.

The Seditious Meetings Bill, 57 George III, cap. 19, was read a third time and passed in the Lords. The fifth clause of the Act inflicted the punishment of death on all persons who did not disperse within an hour after proclamation had been made by the magistrates. The Act was permanent. The following protest was inserted after the debate on the third reading,—see Hansard, vol. xxxv, p. 1227. The third reading was carried by 111 to 23.

Because it appears to us that this Statute, in inflicting the penalty of death, is unjustly severe; that it gives to magistrates a formidable and unnecessary power, improperly controuling the general expression of opinion, and interfering both with the public and private meetings of the people, in times of which we consider the danger to be much exaggerated, and which we think call for measures of conciliation and relief, and not of coercion.

Robert Grosvenor, Earl Grosvenor.

George Eden, Lord **Auckland**.
James St. Clair Erskine, Earl of **Rosslyn**.
Augustus Frederic, Duke of **Sussex**.
John Bligh, Lord **Clifton** (Earl of Darnley).
Henry Richard Fox Vassall, Lord **Holland**.
Edward Adolphus Seymour, Duke of **Somerset**.
Thomas Erskine, Lord **Erskine**.

DLXI.

JUNE 3, 1817.

Certain of the Berkshire magistrates had claimed to visit the state prisoners in Reading gaol, under the provisions of 31 George III, cap. 46, section 5, and permission had been refused by the Secretary of State (Lord Sidmouth). Lord Holland therefore moved that the clause of the Act be read, and certain clauses from the Bill of Rights, and next for copies of the correspondence between the Secretary of State and the Berkshire magistrates. His second motion was negatived without a division, and the following protest was entered.

1st, Because it was acknowledged in debate, that in the correspondence moved for, his Majesty's Secretary of State refused permission to certain Justices of the Peace for the county of Berks, 'to visit the State prisoners confined in the gaol of Reading, to ask questions of them, or to enter into conversation with them;' and it is expressly enacted in the fifth Section of an Act of the 31st of the present King, intituled, 'An Act for the better regulating of County Gaols and other Places of Confinement,' that certain Justices of the Peace appointed by the General or Quarter Sessions shall (either together or singly) personally visit and inspect both the common gaols and other the houses of correction or other places of confinement, at least three times in each quarter of the year, and oftener, if occasion shall require, and shall examine into the state of the buildings, and the behaviour and conduct of the respective officers, and the treatment and condition of the prisoners; and furthermore, shall at any General or Quarter Sessions make a report in writing, of the state and condition of the same, and of all abuses which may occur to their observation; and the Chairman of the said Sessions is hereby required to call upon the said visitors for such report.' It is moreover in the same Section expressly declared, that 'it shall be lawful for every Justice of the Peace for such county, riding or division, of his own accord, and without being appointed

a visitor, to enter into and examine the same at such time or times, and as often as he shall think fit, and if he shall discover any abuses therein, he is required to report them in writing at the next General or Quarter Sessions of the Peace.'

We could not reconcile it to our duty to reject all further enquiry into the violation of a Statute neither obsolete nor ambiguous ; and when we adverted to the quarter from whence such disobedience to the law had originated, we deemed ourselves called upon to protect one of the most essential rights of the people, vindicated at the Revolution of 1688, and asserted in the Act of the 1st of William and Mary, namely, '1st, That the pretended power of suspending laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.' '2ndly, That the pretended power of dispensing with the laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.'

2ndly, Because the argument urged in debate, that the prerogative of the Crown extends to the regulation of all his Majesty's gaols, and that consequently no Act of Parliament relating to them can, without reciting the previous consent of the Crown, be imperative against the mandates of a Secretary of State, appears to us unfounded in principle, inconclusive in its application, and highly dangerous in its consequences.

A prerogative, however undisputed, cannot, we presume, counteract the force of an Act of Parliament, sanctioned by the three branches of the Legislature, and consequently consented to by the Crown.

The Justices, authorized by the 31st of the King, to visit the common gaols of their respective counties, do not, by complying with the Act, alter any regulations made by his Majesty; they act under his commission; they are removable at his will, and they are permitted, and in some cases required, to enforce the regulations for gaols, issuing either from the Crown in virtue of its prerogative, or from any other lawful authority: the provisions therefore of the 31st of the King cannot interfere with the prerogative of the Crown to whatever extent that prerogative may be supposed to exist.

If the claim of unlimited prerogative is to be set up in all institutions which, in the language of the law, belong to the King, and if the laws of the land, after passing the two Houses of

Parliament, and receiving the royal assent, have no power to limit that prerogative, then in all things relating to the army, the navy, and the courts of justice, the dispensing power, which our ancestors struggled to extinguish, is revived, and the securities devised for our property, our liberties, and our lives, by the wisdom of Parliament, exist only at the mercy of the advisers of the Crown : a principle which would substitute arbitrary will for positive law, convert Parliament itself into an useless appendage of a Court, and our free Constitution into an absolute Government, dependent on the caprice of a monarch and his advisers.

3rdly, Because the law does not enact, nor does reason require any difference of treatment between state prisoners and other prisoners committed to a common gaol ; and should the exigencies of the state require such difference to be made, the Secretary of State has it in his power to commit in the first instance, or afterwards to convey such prisoners to fortresses and other places of confinement more immediately under the direction of the advisers of the Crown, and not, as we apprehend, included in the provisions of the 31st of the King.

4thly, Because no practice previous to the passing of the Act, and none subsequent to it (if any such were pretended) can justify his Majesty's Secretary of State in departing so entirely from its spirit and its letter, as to prevent the magistrates from executing duties plainly enjoined, and from exerting powers without any reserve or exception conferred upon them by an Act of Parliament clear in its construction and consistent in its provisions ; and when this branch of the Legislature has so recently been called upon to concur in the temporary suspension of the most valuable laws of the land, we felt it more imperiously our bounden duty to watch over the statutes which are still permitted to exist, and to enforce an obedience to the remaining laws in those who are entrusted with the execution of them, and already invested with powers so extraordinary, and so liable to abuse.

James St. Clair Erskine, Earl of Rosslyn.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

Henry Bromley, Lord Montfort.

Henry Richard Fox Vassall, Lord Holland.

DLXII.

MARCH 5, 1818.

In consequence of various illegal acts committed by persons who, previous to the 26th of January, 1817, had apprehended, imprisoned, and detained in custody, suspected persons, and who had suppressed tumultuous and unlawful assemblies, a Bill of Indemnity was brought forward by the Government,—58 George III, cap. 6. On the third reading, it was proposed that the Bill be recommitted, a debate on the principle of the measure having been held on the 3rd of March,—Hansard, vol. xxxvii, p. 713. The motion for recommitment was made by Lord Auckland, and was negatived by 93 to 45. The following protest was inserted.

1st, Because it is manifest that there has been no widely-spread traitorous conspiracy, nor even any extensive disaffection to the Government, since the Secret Committee, whose report is the sole foundation of this proceeding, do themselves express their satisfaction in delivering their decided opinion, 'that not only the country in general, but in those districts where the designs of the disaffected were the most actively and unremittingly employed, the great body of the people had remained untainted, even during periods of the greatest internal difficulty and distress;' stating further as facts, 'that the insurgents were not formidable by their numbers, though actuated by an atrocious spirit; and that, though the language used by many persons engaged in this enterprize, and particularly by their leaders, left no room to doubt that their objects were the overthrow of the established Government, yet that such objects were extravagant, when compared with the inadequate means which they possessed; and that not finding their confederates had arrived as expected to their support, and that in the villages through which they passed, a strong indisposition being manifest against their cause and projects, some of them had thrown away their pikes before the military appeared, and that on the first shew of force had dispersed, their leaders attempting in vain to rally them.

2ndly, Because in such a state of things, so consolingly described by the Committee, and so almost ludicrously destructive of every idea of an armed rebellion, or dangerous insurrection, more especially against a Government supported by such an untainted people, and such an immense military force; we cannot but think that a different and less alarming course ought in wise policy to have been pursued; and that tranquillity might have been equally

restored by a vigorous execution of the ordinary laws, and the exertions of a vigilant magistracy, without any suspension of the public freedom, since it is the prompt selection and speedy execution of a few palpable offenders, rather than delayed proceedings against numbers upon doubtful testimony, that invest the courts of justice with a salutary terror and force.

3rdly, Because the departure from this just and judicious mode of proceeding gave an indiscriminate importance to the accused, whilst it exposed the administration of the Government to a dangerous disrespect.

4thly, Because even when the Act of Habeas Corpus is suspended, none on that account ought to be apprehended upon questionable suspicion, or, to use the language of the report, upon 'such expectations of evidence as ministers have unavoidably relinquished;' but upon such grounds only as would be just warrants for arrests and trials in ordinary times, the only legal effect of the suspension being, that it suspends the deliverance of the accused: we think therefore that a general indemnity for such numerous and long imprisonments ought not ever to have been proposed to Parliament until an open and impartial investigation had taken place.

5thly, Because from the mistaken principle of this Bill, malicious and meritorious illegality are equally protected, on the false and unfounded assumption that informations ought to be indiscriminately and perpetually secret; but even if we could agree that whilst traitorous conspiracies are actually in force, and extraordinary powers are in action for their suppression, secrecy could in all cases be justified, yet we never could consent to its continuance after order was restored; the laws being then sufficient to protect good subjects for having honestly discharged their duties, and because holding out such general prospects of indemnity is a dangerous encouragement to mercenary informers, who make an infamous traffic in the lives and liberties of mankind, deceiving and disgracing the Government, whilst they betray the innocent whom they accuse.

6thly, Because it is not the occasional resort to such secret and impure sources of evidence in cases of obvious necessity, but the systematic encouragement of it which we conceive is sanctioned by this Bill, that we protest against and condemn; since the successful prosecutions of the worst traitors and libellers can bring no security

to the Government of this country, unless the conduct of its Ministers, and of its Parliament, by a faithful adherence to the principles of the Constitution, shall constantly expose the malignity of their treasons, and the falsehood of their libellous complaints.

Thomas Erskine, Lord **Erskine**.

Henry George Herbert, Earl of **Carnarvon**.

Henry Fitzmaurice Petty, Marquis of **Lansdowne**.

Robert Grosvenor, Earl **Grosvenor**.

James St. Clair Erskine, Earl of **Rosalyn**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

Henry Bromley, Lord **Montfort**.

Peter King, Lord **King**.

George Eden, Lord **Auckland**.

Henry Richard Fox Vassall, Lord **Holland**.

DLXIII.

MAY 22, 1818.

A Bill continuing the Bank restriction Act till the 5th of July, 1819, was read a second time on this day. The reasons for the Act are given in a speech in the Commons on the 9th of April, 1818, by the Chancellor of the Exchequer (Vansittart). No division was taken on the second reading of the Bill in the Lords (it became 58 Geo. III, cap. 3), but the following protest was inserted.

1st, Because this Bill for continuing the restriction of payments in cash on demand for another year, has been introduced and supported on the ground, that the raising of foreign loans would drain this country of its coin; an opinion founded on gross misconception and ignorance of the subject; for the metallic currency of no country can be exhausted, except by the substitution of a paper currency not payable in cash on demand, which is unfortunately the very system it is the object of this Bill, at least for a time, to establish.

To such a degree does the ignorance of those who have argued the necessity of this Bill, on the probability of great foreign remittances, appear to me to extend, that it seems to have escaped their observation that capital may be conveyed from one country to another in the shape of goods as well as of bullion; and that the former is the mode in which the great bulk of foreign remittances must be made; for the moment the exchange becomes unfavorable by the forced exportation of a small quantity of coin,

it must give such encouragement to the exportation of commodities, and such discouragement to the importation of them, that, whilst it is impossible, consistent with the interest of the merchant, to import commodities equivalent to the goods exported, it must be his interest to make every necessary remittance in goods, rather than in coin.

It is in truth folly to imagine that the exportation of coin or bullion, as a means of restoring the balance of payments, when deranged by a foreign loan, or any other source of necessary remittance, can be long persevered in, either by this or any other country; for, on the supposition that those who have engaged to make remittances will consult their own interests, the quantity of coin that can at any time be withdrawn from the circulation of a country, to effect this object, is small indeed, as must be obvious to those who reflect, that as soon as any portion of the gold or silver coin is exported, the value of that which remains must increase; or, in other words, the value of all the commodities must diminish; which, of course, will present to the contractor for a foreign loan, a state of things, that renders the exportation of goods a more advantageous means of fulfilling his engagements, than the exportation of coin or bullion.

It is true that the foreign market may be glutted with those goods at the price at which the merchant can afford to sell them; and that bullion may again become a source of less expensive remittance; but the moment a little more gold is exported, a further reduction of the price of commodities must ensue, which cannot fail once more to create an efficient demand for our manufactures, and to render the exportation of gold the least profitable means of conveying capital abroad.

Thus, therefore, before any country can be drained of its gold, by the necessity of remitting capital, in consequence of foreign loans, there must be a proportional demand for, and exportation of its commodities; and as gold and commodities must become alternately the least expensive means of remittance, so it cannot be exhausted of its coin, without supposing that it is possible, that it should be exhausted of all the goods of its growth and produce.

2ndly, Because this doctrine, sound in theory, is supported both by authority and experience.

From the authority of Mr. Winthorp, when examined before the Irish Exchange Committee, we learn, that it is impossible to drain any country of so much of its coin as is necessary to carry on its traffic, unless by the establishment of banks, and the issue of the paper of such banks, made to answer as a substitute for coin.

And from experience we know, that at a time when great foreign remittances were forced, both by the existence of the Austrian loan, and large subsidies we had agreed to pay to German Princes, betwixt the years 1794 and 1797, little more than £1,250,000 in specie was remitted by Mr. Boyd, the agent for the imperial loan; whilst it appears, by the report of the House of Lords on the Bank of England in 1797, that the exports to Germany alone, in the years 1795 and 1796, amounted to eight millions annually, when in time of peace they did not amount to more than £1,900,000: indeed eight millions, the value of the goods exported to Germany, at that time annually exceeded by at least £2,600,000 the value of the exportation of commodities, in time of peace, to France, Flanders, Holland and Germany combined; leaving no doubt that such an increase of demand could alone arise from the circumstance of the engagements which the country had formed to send capital abroad.

3rdly, Because the probability of great and extensive foreign loans, to be filled by the capitalists of this country, which gives to Parliament reason to apprehend the necessity of large foreign remittances, far from forming a ground for arguing that the restriction of payments in cash ought to be extended, forms a solid ground for maintaining that the welfare of the state more than ever requires that it should be immediately done way.

For as these remittances may be made either in goods or in bullion, procured by the melting of our coin, it is apparent that as the taking off the restriction must create a home demand for our coin, it will encourage the remittances being made in goods, to the great benefit of our manufacturers; whilst the continuance of the restriction, by annihilating all demand for our gold coin, must encourage the remittances being made in gold, to the great injury of our manufacturers.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DLXIV.

MAY 27, 1818.

On the third reading of the Bank Restriction Bill, Lord Lauderdale moved a clause, the purpose of which was to establish a double currency of gold and silver. His clause was rejected, and the following protest was entered.

1st, Because it appears to me, that no reduction of the advances to government, on the part of the Bank of England, or any other arrangement of its affairs, however prudent and well calculated to secure its being qualified to pay in cash on demand, could, if the restriction was done away, enable that establishment to fulfil its engagements for any length of time, without enormous loss to the proprietors, unless the Act of the 56 Geo. III, cap. 68, intituled, 'An Act to provide for a new silver coinage, and to regulate the currency of the gold and silver coin of this realm,' is altered or repealed.

By that Act, gold coin is declared to be the only legal tender of payment for any sum exceeding forty shillings; and the proportion betwixt the value of our gold and silver coin is altered from 15.059 to 1, which is nearly the present relative value of gold to silver bullion in the market of Europe, to 14.121 to 1; making a difference of £5 18s., or nearly £6 per cent. in the relative and intrinsic value of our gold and silver coin.

Under this arrangement, it is evidently impossible that gold can continue to circulate in this country; for unless there was a gold price and a silver price for all commodities, gold coin can only have the same avail in making purchases as silver coin; that is, it would have £6 per cent. less of efficacy in the purchase of commodities in these his Majesty's dominions, than in the rest of Europe; a difference more than sufficient to force its being exported the moment it is issued from the bank.

The bank, therefore, must be subjected to a great loss from a constant demand for gold, whilst it continued to issue its paper; a demand not naturally arising from the state of the circulation, but inevitably resulting from the profit afforded by the exportation of gold; and this loss must be the more formidable, as under the present system of our paper circulation, the Bank of England is liable to provide gold, not only for its own notes, but, through its

own notes, if they are allowed to remain in circulation, for all the paper issued by the private bankers throughout the Kingdom.

2ndly, Because, though the profits the bank has acquired since the restriction, have been, to the great injury of the community, large beyond example, yet these profits would, without benefit to the community, be exhausted, if they continued their paper in circulation under the 56 Geo. III, cap. 68, as it is impossible that any capital could continue to sustain the operation of purchasing gold at the price it would infallibly hold in the market, when measured by our silver coin, and paying it away at the rate of £3 17s. 10½d. per ounce, to persons who could alone realize the profit, which its comparative intrinsic value secures, by exporting it; for that Act provides, under severe penalties, that 'no person shall by any means, device, shift or contrivance whatsoever, receive or pay for any gold coin lawfully current within the United Kingdom of Great Britain and Ireland, any more or less in value, benefit, profit or advantage, than the true lawful value which such gold coin doth or shall by its denomination import; nor shall utter or receive any piece or pieces of gold coin of the Realm at any greater or higher rate or value, nor at any less or lower rate or value than the same shall be current for in payment, according to the rates and values declared and set upon them pursuant to law.

3rdly, Because, as I cannot help regarding the declarations made in the course of the debate on this subject, that every thing had been done on the part of the Government and of the Bank to qualify it to resume payments in cash on demand, as tending to deceive Parliament, whilst the 56th of the King, cap. 68, remains in force; so I cannot concur in passing an Act for the resumption of cash payments on the 5th of July, 1819, or at any other definite period, without reference to the alteration or repeal of that law; for I should feel myself, by such conduct, a party to a gross deceit, which Parliament will practise on the people of this country, by passing an Act which seems to assume the possibility, that the bank may, without ruin to the establishment, resume and continue its ancient salutary practice of paying in cash on demand, whilst the provisions of that Act are in force.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DLXV, DLXVI.

JUNE 1, 1818.

By 56 Geo. III, cap. 86, certain regulations are enacted respecting resident aliens, and powers are given to the secretaries of state to detain, expel, or surrender any alien. By 58 Geo. III, cap. 96 the Act is continued for two years. The debate on the Bill can be found in Hansard, vol. xxxviii, p. 1017. The following protests are inserted.

Because by this Bill the Secretary of State is authorised to convey an alien to any foreign port, and there to deliver such alien into the hands of his mortal enemies, to subject him to perpetual imprisonment, to corporal punishment, to torture, or to death.

Augustus Frederic, Duke of **Sussex**.

Augustus Frederic Fitzgerald, Viscount **Leinster** (Duke of Leinster).

Henry Hall Gage, Lord **Gage** (Viscount Gage).

James St. Clair Erskine, Earl of **Rosslyn**.

Charles Grey, Earl **Grey**.

Henry Richard Fox Vassall, Lord **Holland**.

1st, Because the Bill is cruel, for even when not perverted to any improper purposes, it may deter the victims of civil or religious persecution abroad from seeking refuge under the laws of a free country.

2ndly, Because the Bill is unjust; it exposes all resident aliens, (such even as may have settled here in consequence of no such law existing at the time) to actual punishment without trial; and it condemns even the most unsuspected among them to an evil greater than most punishments, a dependence on the arbitrary will of one man.

3rdly, Because the Bill is unnecessary, there being no unusual resort of strangers to this Kingdom, and no apprehension, real or pretended, that individual foreigners either possess the means or harbour the design or disturbing our internal tranquillity.

4thly, Because the Bill is unconstitutional: it creates a power liable to abuse and unknown to our laws, and arbitrary authority has always been thought to degrade those who are the objects of it, and to corrupt those who possess it, and thereby to lead to tyrannical maxims and practices, incompatible with the safety of a free people.

5thly, Because the Bill is impolitic : it discourages the employment of foreign capital, and the exercise of foreign ingenuity in our country, and obviously tends to embroil us with our Courts of Europe, by rendering the residence of any obnoxious individuals among us, an Act of the State, and no longer a consequence of the hospitable spirit of our municipal laws.

Augustus Frederic Fitzgerald, Viscount **Leinster** (Duke of Leinster).

Augustus Frederic, Duke of **Sussex**.

Peter King, Lord **King**.

Frederic Ponsonby, Lord **Ponsonby** (Earl of Bessborough).

Henry Stephen Fox Strangways, Earl of **Hochester**.

Charles Grey, Earl **Grey**.

James St. Clair Erskine, Earl of **Rosslyn**.

Henry Richard Fox Vassall, Lord **Holland**.

For the first, second, third and fifth reasons.

Henry Fitzmaurice Petty, Marquis of **Lansdowne**.

For the first and second reasons.

Henry Hall Gage, Lord **Gage** (Viscount Gage).

DLXVII.

JUNE 2, 1818.

In order to hurry the Alien Bill through the House, Lord Sidmouth, Secretary of State, moved that the Standing Orders, Nos. 26 and 155, which regulate the course of business in the House of Lords, should be suspended. This was carried by 56 to 25, and the following protest was inserted.

Because to suspend the Standing Orders of this House is at all times a proceeding liable to grave objections, and only to be justified by some urgent necessity ; but to suspend them for the purpose of hurrying a Bill through two stages in one day, when that Bill has received alterations in the Committee so important as to require a change in its title, and an amendment in its preamble, seems to us not only to violate the letter of our Standing Orders, but to defeat the purposes for which they were devised, and to set at nought the reasons upon which they are founded.

Augustus Frederic, Duke of **Sussex**.

Henry Richard Fox Vassall, Lord **Holland**.

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

DLXVIII.

JUNE 9, 1818.

The Standing Order, No. 155, regulating the passage of business through the House, was suspended on several occasions towards the close of the Session. In this case, the Bill was to prevent aliens from becoming naturalised, except in certain cases, and for a short time (58 George III, cap. 97). Parliament was dissolved the next day.

The following protest was entered.

Because to suspend the Standing Orders of this House is at all times a proceeding liable to grave objections, and only to be justified by some urgent necessity; but to suspend them for the purpose of hurrying through all its stages in one day a Bill which must have the effect of suspending various Acts of Parliament which have not been named, and which the House has not had an opportunity of considering, seems to us to defeat the purposes for which they were devised, and to set at nought the reasons upon which they are founded.

Charles Grey, Earl Grey.

Henry Richard Fox Vassall, Lord Holland.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

George John Spencer, Earl Spencer.

Henry Bromley, Lord Montfort.

James St. Clair Erskine, Earl of Rosslyn.

DLXIX.

JUNE 18, 1819.

In this year a Bill was passed (59 George III, cap. 49), by which the restriction on the Bank was continued till 1823, and provision was made for the gradual resumption of cash payments. The report of the Lords on the state of the Bank may be found in the Journals, vol. lii, pp. 342-537. The debate in the Lords may be found in Hansard, vol. xl, p. 604; that in the Commons, commenced by Peel, in vol. xl, p. 676. The following protest is lodged against the second reading of the Bill.

1st, Because having stated in a protest entered on the Journals of this House, of date 21st of June, 1816, 'That by reason and experience we are taught, that if coin of different metals is thrown into circulation, varying in the proportion betwixt their real and denominative value, that which is of greatest intrinsic value has always disappeared; thus in the course of the last century twenty-one shillings of lawful silver coin, being of intrinsic or market value,

nearly four-pence more than a guinea, we know, that all lawful silver money vanished from circulation ; and yet it is now expected, that our gold coin will remain in circulation, though a guinea will, under this new plan, possess considerably more real value than twenty-one shillings of our new silver coin !!!'

And having further stated, in a protest to be found on the Journals of this House, of date 27th of May, 1818, 'I cannot concur in passing an Act for the resumption of cash payments on the 5th of July, 1819, or at any other definite period, without reference to the alteration or repeal of the 56th of George III, chap. 68 ; for I should feel myself by such conduct a party to a gross deceit, which Parliament will practise on the people of this country, by passing an Act which seems to assume the possibility that the Bank may, without ruin to the establishment, resume and continue its ancient and salutary practice of paying in cash on demand, whilst the provisions of that Act are in force.'

I do not now feel, that any circumstances have occurred, which can justify an alteration of those opinions ; on the contrary, I must think the truth of the doctrines then advanced, concerning the consequences of our Mint regulations, is strongly confirmed by the reports of the Committees of Parliament ; as from them we learn that gold coin could not be forced into circulation in the year 1816, the public being unwilling to receive it previous to the new system of coinage being acted upon : that gold was at that time under the Mint price, and the exchanges with every country in Europe favourable to us : that immediately after the month of March, 1817, when our silver coin was first thrown into circulation, the price of gold rose, the exchanges calculated in gold coin became unfavourable, and our gold coin has been ever since so eagerly sought after for exportation, that it has uniformly been purchased at a premium the moment it was issued by the Bank ; and that the degree to which our exchanges, calculated in gold coin, have been unfavourable, as well as the price to which gold bullion has risen, has never exceeded those limits which would have been the natural boundary of the one and of the other, if our silver coin had circulated in abundance without any Bank paper.

In further proof of the justice of the opinions recorded in those protests, it must also be observed, that though the exportation of gold has always afforded a profit, the importation of silver has, on

the other hand, as uniformly secured a profit to the importer, since the month of March, 1817, when our silver coin was issued; a situation of things which could only be occasioned by the disparity of intrinsic value betwixt our silver and our gold coin.

By the Committees of the two Houses it has indeed been assumed, that there has been of late an over-issue of Bank paper, and under that impression this plan has unfortunately been adopted; but had that been the case, we know from experience, that the exchanges must have been nominally unfavourable, whether calculated in our gold or our silver coin, and that the exportation of silver must have been attended with a profit, as well as the exportation of gold.

Besides, from the following table of the amount of bank notes, of the price of gold bullion, and of the state of the exchanges, in the middle of each quarter since the 5th of July, 1817, the hypothesis of the Committee must appear unfounded; as it is apparent, that though the notes of the Bank of England have been diminished within a year and a half, £4,432,547, that is, fourteen seven-tenths per cent., no effect has been produced corresponding to that which the doctrines of these Committees would teach the public to expect:

TABLE shewing the Amount of Bank Notes, the Price of Gold and Silver Bullion, and the State of the Exchanges, in the middle of each quarter since the 5th of July, 1817.

Year.	Day of Month.	Value in Bank Notes.	Prices of Gold.			Prices of Silver.	Exchange with Paris.	Exchange with Hambro'.	Exchange with Lisbon.	
		£	£	s.	d.	s.	d.			
1817	Aug. 16	30,112,661	4	0	6	5	3½	24 50	35 2	58
	Nov. 15	29,446,087	4	0	6	5	3½	24 40	34 9	58½
1818	Feb. 14	28,742,826	4	2	6	5	4½	24 5	34 0	59
	May 16	27,985,869	4	1	6	5	5½	24 10	34 0	59
	Aug. 15	26,603,937	4	1	6	5	5	24 35	34 6	58½
	Nov. 14	26,026,540	4	2	0	5	5½	23 70	33 8	58½
1819	Feb. 13	25,680,114	4	1	0	5	7	23 80	33 8	58

2ndly, Because, agreeing with all respectable authorities, who have ever treated upon the subject of money, that the metallic currency of a country is useful both as a measure of value and as an equivalent to circulate its commodities, I cannot but reprobate a system of currency which tends, in my opinion, to disqualify our coin from the due performance of either of those duties.

That it will be disqualified from performing its duty as a measure of value seems to me incontrovertible, for uniformity throughout all its parts and subdivisions is the primary quality necessary for the formation, either of a measure of space, of dimension, or of value; yet the supporters of this plan themselves acknowledge a gross want of uniformity in the measure or standard of value they have adopted, as they admit the silver coin to be disproportioned in intrinsic value to the gold coin, though silver coin, being a legal tender for forty shillings, must be the measure resorted to in the payment of the wages of labour, and in by far the greatest number of other transactions.

To me it appears, that there is no better way of illustrating the absurdity of this novel system of constructing a measure of value, than by supposing that a measure of dimension was formed on a similar principle; we should then have a pole sixty yards long, each yard consisting of three feet, and each foot of twelve inches, similar to the solid ingots of gold at £3 17s. 10½d., which are not to be issued in smaller quantities than sixty ounces; we should next have a foot, as the measure of all smaller dimensions, accurately eleven inches long, similar to our silver currency diminished in intrinsic value by a seignorage; and then, to bar the possibility of all criticism upon the absurd and ruinous consequences of such a want of uniformity, we should adopt, as a safeguard, a regulation similar to that of making our silver coin a legal tender to the extent of only forty shillings; which of course would be effected by enacting, that this diminished foot should not be a lawful measure for any extent of dimension exceeding two yards.

Again, I must think that, under this system, our coin will be equally disqualified from performing its duty as an equivalent, in circulating the commodities of this mercantile country; for, regarding it in this point of view, the strongest recommendation to a system of coinage is, that it ensures the possession of that quantity of currency which the wants of the community render necessary; yet it is admitted by the authors of this system, that the security from the injury to which the disproportion in the value of our silver coin may give rise, is the power that Government retains of making a scarcity of the coins of that metal; and that our security for the possession of gold arises from the necessity the Bank will be under, of making a scarcity of paper, such as will, if

possible, force gold coin to remain in circulation along with silver coin of $9\frac{1}{2}$ per cent. less intrinsic value ; so that, far from securing to the public the quantity of currency which the wants of the country may demand, it is avowed, that under this system we can only acquire gold by an artificial scarcity of paper, whilst we can only hope to retain it by an artificial diminution of the mass of silver currency necessary for the conduct of our smaller payments.

3rdly, Because I am of opinion, that an alteration in our Mint regulations is a necessary preliminary step to the restoration of our currency to a salutary state ; and I cannot doubt that if the Mint proportions betwixt the coins of gold and silver were assimilated to the market proportions of these metals, or if our silver coined at the old Mint price of *5s. 2d.* (the ancient standard of this country) was made the sole legal tender, and gold allowed to circulate with an *agio*, the Bank might at any time resume payments in cash, with safety to that establishment, without exposing the country, in its present distressed situation, to the danger of an experiment to ascertain the truth of a novel and fanciful theory concerning the conduct of its circulation.

For the price of gold has only appeared high because it was measured by our depreciated silver coin, or by paper partaking of its value, as must have been the case when it was *de facto* alone convertible into coin of that metal ; and the real exchange betwixt this country and the other countries of Europe has been for the last three years uniformly in our favour, which it would have been nominally, even in gold, had we adopted an arrangement of our coin which assimilated the value of the gold and silver coins to the market value of these metals, as is evident from the following calculations reported to this House in the evidence given before the Committee (page 155), founded upon the course of exchange with Paris being at 23.80, the most unfavourable rate which for any length of time we have experienced during that period.

Proof that the present course of exchange of 23 francs 80 cents. on Paris is in favour of England.

	Francs.	Cents.
One pound sterling will give . . .	23	80
Each franc contains 4.500 grammes of fine silver, and therefore the 23 francs 80 cents. will contain of fine silver . . . grammes,	107.100	

The gramme contains 15.445 grains English,
 and then the 107.100 grammes will contain
 of fine silver . . . English grains, 1,654.160
 The pound sterling of 20 shillings, by the
 present Mint regulations, contains of fine
 silver . . . grains, 1,614.545

Profit in favour of England on each pound
 sterling . . . grains, 39.615
 Being about $2\frac{1}{4}$ per cent.

Proof, that if we adjust our proportions by Mint regulation to those established by the French Mint, that gold will arrive from France according to the present course of exchange of 23 francs 80 cents.

If we adjust our proportions to those of the French, the Mint price of gold, as compared with our present silver coinage, will be £4 5s. 3d. per ounce; and the pound sterling (or sovereign) in gold will then contain 103.226 grains of fine gold, and then we shall have the following calculation:

	Francs.	Cents.
One pound sterling, at the present course of exchange	23	80
The French gold coin of 20 francs contains 5.806 grammes of fine gold, 23 francs 80 cents will therefore give 6.822 grammes of fine gold; and the gramme being equal to 15.445 grains English, the 23 francs 80 cents. will give grains,		106.710
And at £4 5s. 3d. per ounce, the English pound sterling will contain 112.610 grains of 22 carats fine, and of fine gold of 24 carats grains,		103.226

Profit in favour of England on each pound
 sterling grains, 3.484

Being full 3 per cent. in favour of England.

4thly, Because I am decidedly of opinion that the people of this country will deeply feel the effects of the absurd system of circulation sanctioned by this Bill, which regards uniformity as unnecessary in a measure of value, and which rests its hope of success on the Bank's making an artificial scarcity of paper, and on Government's creating an artificial scarcity of silver coin; and I do most sincerely regret the disgrace which, I fear, awaits Parliament, when by fatal experience it shall discover the necessity of remedying the evils which it is now rashly and unnecessarily about to inflict on this mercantile country.

Yet, that the moment will soon arrive, when the folly and mischief of this unprincipled plan will be practically disclosed, I cannot entertain a doubt; for, even if it can be supposed that the scheme could succeed to the extent of gold bars at £3 17s. 10½d. becoming the real and practical standard of value, it follows, that, as silver bullion must retain the market proportion of 15½ to 1, its value, measured in gold, must be 5s. 0½d. an ounce; and at that price, our silver being coined into 5s. 6d. an ounce, there would be a premium of nearly 10 per cent. as an encouragement to artists, either at home or abroad, to fabricate our silver currency, which must inevitably create an unlimited increase of the money of that metal, and thus completely annihilate that power in Government to regulate the quantity of our silver coin, which is admitted by its adherents to be a necessary security for the success of the system.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DLXX.

DECEMBER 6, 1819.

Early in the Session, the Government, in accordance with pledges given in the Prince Regent's speech, brought in Bills to prevent seditious practices. One of these, for the prevention of blasphemous and seditious libels, was debated in the Lords on a second reading (60 George III, cap. 8). It received the royal assent on the 30th of December. The following protest was lodged against the second reading.

Because we believe, that by a seasonable exertion of the laws, as they at present exist, the press cannot be abused to any bad purpose without incurring a suitable punishment.

Because any extension of the power of punishment now vested

in the courts of law with respect to cases of libel, appears to us therefore to be unnecessary.

Because the offence of publishing a libel is, more than any other that is known to our law, undefined and uncertain ; publications which at one time may be considered innocent and even laudable, may at another, according to circumstances and the different views of public accusers, of judges and of juries, be thought deserving of punishment ; and thus the author or publisher of any writing dictated by the purest intentions in a matter of public interest, without any example to warn, any definition to instruct, or any authority to guide him, may expose himself to the penalty of being ' banished from the United Kingdom, and all other parts of his Majesty's dominions, for such term as the court in which such conviction shall take place shall order ; or be transported to such place as shall be appointed by his Majesty for the transportation of offenders, for any term not exceeding seven years.'

Because the fear of being subjected to the punishment of a common felon thus suspended over the head of any person who may have been once convicted of publishing a libel, to which mere inadvertence may subject him, and against which no degree of caution can afford him complete security, must necessarily deter him from the fearless exercise of that right, which has hitherto been the proud prerogative of Englishmen, of discussing public measures, and endeavouring to warn his countrymen against the dangerous encroachments of power.

Because this Bill, therefore, so inconsistent with the policy of our law, and with the practice of our ancestors, appears to us to be a most dangerous invasion of the just freedom of the press, and to be subversive in one of the main defences of the rights and liberties which were secured to us, by progressive struggles, through a long succession of ages, and at length asserted, declared, and as we had fondly hoped, firmly established for ever by the Revolution of 1688.

Charles Grey, Earl Grey.

Augustus Frederic, Duke of Sussex.

Thomas Erskine, Lord Erskine.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

Sackville Tufton, Earl of Thanet.

James St. Clair Erskine, Earl of Rosslyn.

William Charles Keppel, Earl of Albemarle.

John Bligh, Lord Clifton (Earl of Darnley).

Peter King, Lord **King**.
George Eden, Lord **Auckland**.
Henry Richard Fox Vassall, Lord **Holland**.
George Child Villiers, Earl of **Jersey**.
Gilbert Eliot, Earl of **Minto**.
Charles Anderson Pelham, Lord **Yarborough**.
Henry Fitzmaurice Petty, Marquis of **Lansdowne**.
Peter Leopold Louis Francis Cowper, Earl **Cowper**.

DLXXI.

DECEMBER 6, 1819.

Another measure of the Government was an Act, 60 George III, cap. 2, authorising Justices of the Peace in certain disturbed counties (those named in the Act are the northern and midland) to seize and detain arms.

The following protest is entered.

Because the right of having arms for their defence, suitable to their condition and degree, is secured to British subjects by the ancient laws of these realms, is declared to be so by the Bill of rights, and is, in the words of Mr. Justice Blackstone, 'a public allowance of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression.'

Because no sufficient evidence has been laid before the House to prove 'that arms and weapons of various sorts have, in various parts of the Kingdom, been collected, and are kept for purposes dangerous to the public peace.' We doubt the fact, and we distrust the remedy. If arms have really been procured for such illegal purposes, the persons engaged in these criminal designs will have had ample notice, before this Bill can pass, to remove them to places of concealment. Whilst this power, therefore, is likely to be in a great degree inefficient with respect to its professed object, it is liable to be most injuriously and vexatiously used in cases where arms may have been provided and kept for the legitimate purposes of self-defence.

Because in former periods of much greater danger to the Crown and Constitution of these realms, when conspiracies by the adherents of the House of Stuart were known to be directed against both, when preparations were making for rebellion, with the assistance of France, when men of the highest rank, station, and

influence in both Kingdoms, were deeply engaged in these designs, nay, during two formidable rebellions in 1715 and 1745, no such power was granted to the Crown; yet the new line of succession was defended, and our free Constitution successfully maintained against all these dangers. The principles of the revolution had been too firmly imprinted in the hearts and minds of our ancestors to allow them, on the spur of any emergency, however alarming, to hazard the existence of a right which they had so recently asserted.

Because this law is, in its very nature, peculiarly liable to abuse, interest, credulity, malevolence, revenge, party violence, and indiscreet zeal, may, equally with a sense of duty, contribute to call it into action; and the powers given for its execution of breaking either by day or night into any house or place, where information may have been received that arms are kept for illegal purposes, must unavoidably expose the persons and property of his Majesty's subjects to injury and violence which cannot be sufficiently guarded against by the provisions made in the Bill for that purpose. This is not a mere apprehension; experience proves that such effects may be expected from it. In Ireland, it is well known, nothing more contributed to irritate the people, and to provoke acts of private resentment and revenge, than the abuses which took place, and particularly the insults which were offered to women, in the exercise of a similar power.

Because we further object to the enactment of this law as part of a system, which in a season of unexampled distress and misery, rejecting every proposition for conciliation or concession, rests on force alone for the suppression of the prevailing discontents, and is calculated to give additional weight to an opinion already too generally entertained, that the Parliament is more ready to presume against the people, and to enact laws for their restraint, than to attend to their just complaints, and to afford them that protection which they have a right to claim against every species of injustice and oppression.

Charles Grey, Earl Grey.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

Sackville Tufton, Earl of Thanet.

Charles Anderson Pelham, Lord Yarborough.

Thomas Erskine, Lord Erskine.

Augustus Frederic, Duke of **Sussex**.
William Charles Keppel, Earl of **Albemarle**.
Peter Leopold Louis Francis Cowper, Earl **Cowper**.
Peter King, Lord **King**.
James St. Clair Erskine, Earl of **Rosslyn**.
Henry Richard Fox Vassall, Lord **Holland**.

DLXXII.

DECEMBER 9, 1819.

Several attempts were made, by the insertion of qualifying words, to mitigate the severity of the Blasphemous and Seditious Libels Bill. These attempts were unsuccessful, and the movers of these amendments inserted the following protest.

1st, Because the crime of publishing unlawful libels has, according to the practice of English law, embraced various offences differing in their nature as well as their degrees of criminality from the wilful and predetermined guilt of the actual writer and publisher, to the negligence and sometimes even to the inevitable ignorance of the party who has been deemed guilty by construction in respect of his pecuniary interest in the publication, or his mere civil relation to the actual publisher; and it therefore seems just and necessary, that where a discretionary punishment of increased severity is to be enacted, it should be confined to that species of libel which, both in its natural tendency, and in the motive of the publisher, exhibits the highest degree of malignity.

2ndly, Because the most effectual, if not the only mode of accomplishing this object, is to introduce into the statute, and consequently into the indictment or informations proceeding upon it, a precise definition of the crime which it is intended to prevent by the extension and alteration of the punishment.

By such means alone can juries in the first instance be apprized of the particular character of the offence imputed to the defendant, or can the judge have a certain rule to distinguish the cases in which his discretionary power is to be exercised.

3rdly, Because, without such exact definition as has been rejected, it is possible that judges as well as juries may, upon different occasions, differ very widely as to the meaning of the word seditious, and thereby introduce into the administration of a penal law an uncertainty, which is at all times an evil, but which is particularly mischievous when the law is very severe.

Henry Richard Fox Vassall, Lord Holland.
Thomas Erskine, Lord Erskine.
Henry Fitzmaurice Petty, Marquis of Lansdowne.
Gilbert Eliot, Earl of Minto.
Henry George Herbert, Earl of Carnarvon.
James Maitland, Lord Lauderdale (Earl of Lauderdale).
Peter King, Lord King.
George Eden, Lord Auckland.
John Russell, Duke of Bedford.
Sackville Tufton, Earl of Thanet.
George Child Villiers, Earl of Jersey.
Robert Grosvenor, Earl Grosvenor.
Peter Leopold Louis Francis Cowper, Earl Cowper.
James St. Clair Erskine, Earl of Rosalyn.

DLXXIII.

DECEMBER 9, 1819.

The fourth clause in the Blasphemous and Seditious Libels Bill inflicts the punishment of banishment on persons convicted a second time of the offence. An amendment to omit this clause was negatived without a division. The following protest was entered.

1st, Because the introduction of banishment in the present Bill seems to be a wanton and dangerous experiment. That punishment has been hitherto unknown to the law of England, and on the present occasion there has been no proof shewn of its necessity, nor due examination had of its consequences. So material an innovation on a system of usages, statutes, and maxims, established without reference to any such punishment, may by analogies and inferences of law affect the rights of the exiles and their descendants in a manner not foreseen by the authors of the Bill, nor in the contemplation of the Legislature that enacts it.

2ndly, Because banishment, from its very nature a punishment of unequal severity in different cases, may be rendered doubly so by the favour or enmity of the sovereigns to whose dominions the exiles would most naturally resort. We doubt the justice of subjecting an Englishman, even when convicted of a political offence, against the rulers of his own country, to the capricious will or arbitrary laws of a foreign government; and we question the policy of teaching men of active spirits and turbulent designs to look to foreign favour for the mitigation of their lot on the miscarriage of their enterprizes at home. Observation of what

is going on around us—reflexion on what has taken place in past times—strengthen these considerations. The present situation of Europe affords us no assurance that the power of one sovereign may not be rendered subservient to the vengeance of another; and the history of free states, modern as well as ancient, admonishes us that nothing has a more direct tendency to introduce foreign influence and foreign interference in the internal affairs of a country, than the banishment of state delinquents.

Henry Richard Fox Vassall, Lord **Holland**.
James St. Clair Erskine, Earl of **Rosslyn**.
Peter Leopold Louis Francis Cowper, Earl **Cowper**.
Thomas Erskine, Lord **Erskine**.
James Maitland, Lord **Lauderdale** (Earl of Lauderdale).
Peter King, Lord **King**.
Sackville Tufton, Earl of **Thanet**.
John Russell, Duke of **Bedford**.
Robert Grosvenor, Earl **Grosvenor**.
George Child Villiers, Earl of **Jersey**.

DLXXIV.

DECEMBER 10, 1819.

The Blasphemous and Seditious Libels Bill was read a third time and passed on this day. The following protest was inserted.

For the reasons assigned in the protest on the second reading of this Bill.

And because, feeling as I do a just abhorrence of the mischief of circulating blasphemous writings, I am persuaded that the prevalence of such libels will not be diminished by the provisions of this Bill.

Because, I consider also, that in the present disturbed and distracted state of the country, measures of extreme severity are little calculated to restore confidence to an irritated and suffering people; and that the increased measure of punishment for the repetition of the offence, of 'composing, printing, or publishing,' what are termed seditious libels, is inconsistent with the genuine spirit of the English Constitution, and inefficient for the object which it professes to have in view.

John Russell, Duke of **Bedford**.

DLXXV.

DECEMBER 17, 1819.

An attempt was made to defeat the Seizure of Arms Bill, by moving that it be read that day six months. But the original motion, that the amendments of the Commons be taken into consideration, appears to have been carried without a division.

It produced the following protest.

1st, Because the Bill which has been justified only on the necessity of the case, and is in itself a temporary violation of a recognized principle of the Constitution, retains a clause authorizing the breaking open of houses by night, a provision revolting to the feelings of the subjects of this country, and tending to increase the irritation which already prevails.

2ndly, Because the necessity, and even the utility for any of the objects contemplated by the authors and promoters of this measure, of granting a power so odious in itself, and so likely to be abused, has never been proved.

John Bligh, Lord Clifton (Earl of Darnley).

Henry Richard Fox Vassall, Lord Holland.

DLXXVI.

DECEMBER 17, 1819.

The Seditious Meetings Prevention Bill went into Committee on this day. The debate on the subject may be found in Hansard, vol. xli, p. 1234. The motion for going into Committee was carried by 135 to 38.

The following protest was inserted.

Because this Bill, as well as the other measures extending the severity of our penal code, have been avowedly adopted under a belief that there at present exists, amongst the manufacturers of this country, a very extended combination engaged in a plot for the destruction of our constitution and the overthrow of all social order.

Whilst to me it appears that no evidence of such a plot has been given, that if an enquiry into the state of the country had been instituted it would have been shewn that no such plot existed, and that the alarming symptoms of disaffection to the constituted authorities of the country which have been locally displayed, arise from the arts and the evil designs of a few operating upon an

extra population, reduced into a state of misery from want of employment, and consequently of clothing and of food.

That this is the real state of the evil under which we now labour cannot be doubted by any man who reflects on the certain consequences of the policy which this country has for years pursued, who possesses a knowledge of the real state of manufacturing labour, or who gives credit to the scanty information which ministers have thought fit to lay before Parliament.

That the revenue and expenditure of all countries must be equivalent, if left to the natural course of things, is a proposition so generally admitted as to require no illustration.

But in this country it appears, that betwixt the end of the year 1794 and the beginning of the year 1819, there was added to our debt the sum of £899,537,144, which, on the supposition that Government borrowing in 3, 4, and 5 per cents. received in cash £75 for each £100 of capital, added to the debt, proves that during that space of time £674,652,858 was raised out of the capital of the country and expended by government, making on an average during these twenty-four years an expenditure of £28,110,535 per annum.

This extra expenditure beyond what the revenue naturally afforded, must therefore have created a formidable increase in the demand for labour,—a rise in the value of labour must have ensued—and it is not in the nature of things that this extended demand, continuing for twenty-four years, must not have increased the population so as to adjust the supply of labour to the demand for it.

But this is not all; every nation in Europe has been more or less engaged in similar practices, and in the state of our manufactures it is impossible that an extra expenditure on the part of any European nation must not have created an extra demand for labour in this country.

In this situation of things it appears to me obvious that a general cessation from this practice must, by suddenly diminishing the demand for labour, leave this manufacturing country in a state in which the supply of labour must be lamentably great in proportion to the demand for it; and consequently that a great fall in the wages of labour must naturally ensue.

Such a fall in the wages of labour cannot, however, take place

without greatly adding to the evil; the man who from his labour can acquire three or four shillings a day is, as experience teaches us, generally led, from a desire of indulgence, to work only four days in a week; whilst the man who, with the utmost exertion of six days' labour, can only obtain seven or eight shillings a week, is driven, by a desire to secure to himself and his family a scanty subsistence, to renounce all relaxation, and even to add to the hours usually devoted to labour.

It follows then, that those who are employed, must by their exertions execute a greater quantity of labour, and by that means greatly increase the numbers thrown out of employment.

That this is no fanciful theory, but on the contrary, a true detail of the origin and of the nature of the evil under which the manufacturing districts are now suffering, is known to every man who has access to accurate information upon the subject; and it appears to me to be fully confirmed by the scanty information which his Majesty's Government have laid on the table of this House.

By the Manchester magistrates we are informed, 'that the Secretary of State was fully apprized of the deep distresses of the manufacturing classes of that extensive population,' and 'that the disaffected and ill-disposed lost no opportunity of instilling the worst principles into the unhappy sufferers, attributing their calamities not to any event which cannot be controlled, but to the general measures of Government and Parliament'; and they add, 'that when people are oppressed with hunger, they do not wonder at their giving ear to any doctrines which they are told will redress their grievances.'

In Yorkshire too, we are informed by the Lord Lieutenant of that county, 'that the Mayor of Leeds believed, that the mass of the population within his jurisdiction was by no means disaffected or seditiously disposed; but they were suffering most cruel privations through want of employment.' Lord Fitzwilliam also states, as the general opinion of the county of York, 'that the real grievance of the people was want of employment.'

Again, 'the acerbation of temper amongst the weavers of West-leigh, is stated to be produced by several privations from the lowness of wages': and those who know the real situation of Glasgow and Paisley can have no hesitation in asserting that the

manufacturers at present exhibit a scene of wretchedness unparalleled in the history of any civilized country.

2ndly, Because, if this is a correct view of the causes of the present discontent and disturbed state of the manufacturing districts; and if it be true, as Lord Bacon has long ago wisely observed, 'that so many overthrown estates, so many votes for troubles'—'that poverty is the matter of sedition, and that the first remedy or prevention is to remove by all means possible the material cause of sedition, which is want and poverty'—it appears to me that this Bill and the other measures which have been adopted, can of themselves effect no good unaccompanied by measures for the relief of those whom our policy has reduced to a state of want.

I have no hesitation in admitting that neither the political institutions of this or of any other country were ever framed to govern a people so nearly deprived of food, and that in this unparalleled state of distress, local and temporary alteration of our laws may be necessary, not only to suppress the evil effects which may arise from the sufferings of the people, but to curb the mischievous intentions of those, who from views of interest or ambition may attempt to mislead them.

There is therefore no local and temporary regulations, calculated to give vigour to the exertions of our military force, in repressing the mischiefs which we have but too good reason to expect, to which, if coupled with wise attempts to remove the present cause of discontent, I would not feel it my duty to give my support.

But I must regard measures of severity, unaccompanied with any effort for removing the causes of the evil, or even with any expression of sympathy for the sufferings of those whom we have reduced to penury, as likely to lead to a feeling of despair which can only add to the dangers so justly to be dreaded.

For to me it appears that by prohibiting public meetings, we may generate secret and private cabals; that by preventing vague threats to divide property, and to have recourse to force, we may give rise to a scene of pilfering, thieving, and perhaps to private assassination—that by suppressing the open and public expression of all those wild dreams to which distress and despair naturally give rise in the minds of men trained under a free government, we may debase the spirit and corrupt the morals of the people; but

that it is by kindness and sympathy with their sufferings, and by administering as far as possible to their relief, to which we can only look as the means of restoring that love and admiration of our political institutions, and that pride in the frame of our free constitution, which have heretofore formed the envy of foreigners, and the universal and well-founded boast of the people of this country.

3rdly, Because I cannot think it is fitting in the Parliament of this country, who have expended millions in protecting foreign emigrants and African Negroes, as well as in the relief of the peasantry of the various States of Europe, to abstain from all attempts to relieve the wants of our manufacturers, on the ground stated in these debates, that nothing can be done to mitigate their sufferings, without violating the true principles of Political Economy.

If indeed this proposition (which alike impeaches all public institutions for the relief of the wretched) was true, I should feel great doubt whether the Government had a right to revert to the strict observance of the principles of Political Economy, the moment it suited the policy of the day, though the preservation of our manufacturers demanded a departure from them, more especially at a time when their sufferings clearly originate from Government's having violated every sound principle of Political Economy, by a forced expenditure continued for twenty-four years.

To me however it appears, that there is nothing inconsistent with the soundest principles of Political Economy, at a time when the class of manufacturing labourers are reduced by the measures pursued, for the supposed benefit of the community, to a state of want; and when the labourers in agriculture, as well as in the formation of articles which administer to the luxurious wants of the opulent, are comparatively well employed; in maintaining that it would be right to impose a tax on funded and landed property for the benefit of our manufacturers, as this operation would only abstract a portion of the funds destined to reward the labour of one class of the community now at their ease, for the purpose of giving employment and subsistence to those who have neither.

It is true that the produce of such a tax must not be employed

in the manufacture of goods, which, by overstocking the market, might tend to deprive others of a demand for their labour.

But if prudently expended by furnishing employment to the destitute, in the improvement of roads, canals, and other works of permanent public utility, or in giving to them the means of emigrating to our colonies; I must be of opinion, that under present circumstances, it is a measure not only consistent with the soundest principles of Political Economy, but even loudly called for, by every feeling of a desire for self-preservation, and by every principle of justice and of humanity.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DLXXVII.

DECEMBER 21, 1819.

The Seditious Meetings Bill was read a third time and passed without a division, but was warmly attacked by Lords Erskine and Darnley.

The following protest was entered.

1st, Because the laws of England, when duly enforced, have always been found sufficient to prevent any confusion arising from popular meetings, or to punish any disturbers of the public peace; and a too ready acquiescence in the suggestions of ministers for imposing new restraints upon the rights and usages of the people (even if the provisions of the Bill were in themselves neither harsh nor unreasonable) appears to us more calculated to add weight to calumny, and to exasperate discontent into hostility, than to defeat the designs of turbulent men, or to reclaim the alienated affections of a mistaken multitude.

2ndly, Because the powers entrusted by this Bill to magistrates are liable to great abuse, and those who disobey them, exposed to dreadful and disproportionate punishment: on the surmise that a stranger is present in a crowd, or on the application of a vague definition to the words of a notice, or to the language of an orator, a Justice of Peace may proclaim a meeting to be unlawful; and an Englishman may become a felon for continuing, even through inadvertence, half an hour on a spot where no breach of the peace has been committed.

3rdly, Because the numerous assemblies alleged in the preamble to be the occasion and justification of the Bill, have been confined

to particular districts, but the restrictions and penalties thereof are generally extended to the whole Kingdom, and even to Ireland, where no such practices have ever prevailed.

4thly, Because this Bill, combined with the restrictions of the press which have already passed, or have been announced in this House, is obviously intended to fetter all free discussion, and to repress, if not stifle, the expression of public opinion.

Large meetings, in periods of political ferment, furnish the means of ascertaining the designs and measuring the strength of the malcontents; they tend to disunite and discredit the rash and mischievous agitators of a mistaken multitude; and they not unfrequently serve as a vent, comparatively innoxious, of that ill-humour and discontent which, if suppressed, might seek refuge in secret cabals and conspiracies, dangerous to the safety of individuals in authority, and subversive of the peace and happiness of society.

Henry Richard Fox Vassall, Lord **Holland**.

Augustus Frederic, Duke of **Sussex**.

Sackville Tufton, Earl of **Thanet**.

Richard Hely Hutchinson, Earl of **Donoughmore**.

Robert Grosvenor, Earl **Grosvenor**.

Thomas Erskine, Lord **Erskine**.

DLXXVIII.

DECEMBER 29, 1819.

The Bill for subjecting newspapers to stamps, and for making 'regulations for restraining the abuses arising from the publication of blasphemous and seditious libels,' was read and passed on this day. It is 60 Geo. III, cap. 9. It was criticised by Lord Erskine, and defended by Lords Liverpool and Ellenborough. Lord Erskine entered his protest.

Because by the stamps imposed by this Bill, and by its further directing recognizances to be entered into by the printers and publishers of the pamphlets and papers therein mentioned, and in sums so large and disproportionate to the probable credit of such persons, or the profits of such small publications, it is manifest, and has indeed been not very indistinctly admitted, that a discouragement, amounting to almost a prohibition, is thus suddenly aimed at a very large and often useful branch of trade.

Because this tacit interdict has not been justified, nor even attempted to be supported in such a manner as the House of

Lords, invested with the only certain means of arriving at truth, was in my opinion imperiously bound to have resorted to, before it consented to a law abridging in any manner the freedom of the press.

Because the great mass of British subjects have no other means of being informed of what passes in Parliament, and in the Courts of Justice, or of the general transactions of the world, but through cheap publications within their means of purchase; and I desire to express my dissent from that principle and opinion, that the safety of the State, and the happiness of the multitude in the laborious conditions of life, may be best secured by their ignorance of political controversies and opinions; as I hold, on the contrary, that the Government of this country can only continue to be secure and respected in proportion as it conducts itself with fidelity and justice, and as all its acts shall, as heretofore, be thoroughly known and understood by all classes of the people.

Because this obstruction to the sale and circulation of small periodical publications is not confined to those of a political character, but most unaccountably extends to all such as shall contain any public news, intelligence or occurrence, or any remark or observation thereon; a description which most obviously comprehends and involves all the transactions of human life, on which reasonable beings, putting national freedom wholly out of the question, can seek or desire to communicate with one another.

Because it may be admitted, on perfect consistency with these objections to this Bill, that considerable numbers of the publications in question may have been mischievous; but no evidence which I can accept as satisfactory has been laid before the House of the extent of such abuses, nor that the laws having been put in due force to suppress them had been found to be ineffectual and insufficient; but on the contrary it has appeared that not one information or indictment had been filed by the Attorney General, throughout the whole of the year 1818, against any printer or publisher of a libel of any description whatsoever, and that in the present year following, no person, except Richard Carlile, has been brought to trial and convicted.

Because, most earnestly as I desire to see the Government of this country in all its branches looked up to with reverence and affection, and all libellers who maliciously asperse it brought to speedy

and constitutional punishments, I am compelled, from long experience in the Courts of Justice, to question the expediency of any other remedies for such abuses, but a vigorous execution of the ordinary laws; since before the passing of the Libel Act, when the province of juries over libels had been annihilated by judicial usurpation, the licentiousness of the press increased beyond the example of former times, until libellers lost their popularity and safety, when the people were restored to the privilege of judging them, and of protecting those who were innocent.

Lastly, Because I am of opinion, that the remedies enacted by this Bill to repress the publications in question will be probably found to be as inefficacious as they are inconsistent with the principles of the Constitution, since, when the smaller printers and publishers are on a sudden thrown out of bread from the impossibility of finding sureties for such large sums, to be levied by the alarming process of extent, and not upon any facts which such sureties can anticipate, but upon uncertain opinions regarding undefined offences, their principals may have recourse to methods of delivering themselves without fraud from the operation of the law: they may enter into larger partnerships or combinations to continue their periodical publications, which will probably be more eagerly sought for, after the disappointed interdict, and Parliament, if it pursues its object, may be driven into a most unpopular siege against the press, increasing at every step the difficulties to be encountered, and conferring popularity upon a few mischievous writers, who would otherwise fall into obscurity or contempt.

Thomas Erskine, Lord Erskine.

DLXXIX.

MAY 16, 1820.

Lord Stanhope moved, in view of the general distress which prevailed in the country, that 'a Select Committee be appointed to consider the practicability and the means of providing employment for the poor, particularly in the manufacturing districts.' See Hansard, new series, vol. i, p. 395. His motion was negatived, and the following protest was inserted.

1st, Because it is in my opinion the duty of Parliament to consider the practicability and the means of alleviating the distress which at present exists, in consequence of the want of employment

for the poor, particularly as that distress has, in many parts of the country, rendered dangerous the machinations of the disaffected, and has already produced much discontent, which, unless relief should be afforded, must be expected to continue, and even to increase.

2ndly, Because I cannot contemplate without deep regret and serious apprehension, the continuance of those calamities which are at present caused by the want of employment for the poor, which tend to disturb the public peace, as well as to destroy the public prosperity; and which, from every consideration of humanity and policy, are much to be deplored.

3rdly, Because it appears to me, that a very considerable number of the poor might be provided with employment;

1. By encouraging the public fisheries, which might prove an abundant source of occupation and subsistence.
2. By promoting the cultivation of waste lands, of which many millions of acres still exist in this Island; and,
3. By adopting proper regulations respecting the use of the machinery, which, by abridging labour, has deprived many industrious persons of employment, both in agriculture and in manufactures.

4thly, Because the adoption of such measures would, in my opinion, diminish very considerably the amount of the poor rates, and thereby tend to relieve the severe distress which is now suffered by the agricultural interests of the country, and to revive in the labouring classes those habits and feelings of independence which are inseparably connected with their welfare.

5thly, Because the relief which might be afforded to the poor by such measures would not be precarious, transient, or of an eleemosynary nature, and would not be attended with such an expense as would be onerous to the State.

6thly, Because the enquiry which was recommended seems particularly expedient under the present circumstances of the country, which is afflicted with a grievous burden of debts and taxes, and suffers also from a stagnation of trade, arising in great measure from causes which may prove to be not of a temporary nature, and which it may not be in the power of this country to controul.

7thly, Because, if the measures which were suggested for the employment of the poor were considered to be impracticable or

inexpedient, the appointment of the Committee which was proposed, would, in my judgment, have been proper, in order to consider of other means by which that most important and most desirable object might be accomplished.

8thly, Because the appointment of that Committee would have been highly gratifying to the people, and would also have afforded an additional proof, that this House is anxious to investigate the causes of any public distress, and, as far as is practicable, to administer relief.

9thly, Because that Committee would, by its enquiries, have furnished more ample and satisfactory information than this House has yet obtained, on a subject most interesting in itself, and peculiarly important at the present moment, the state and condition of the labouring classes.

10thly, Because it has not been shewn by any argument which has been adduced, that it would in any respect be inexpedient to institute the enquiry which was recommended, and which seems to be imperiously demanded by the wants and wishes of the poor.

Philip Henry Stanhope, Earl Stanhope.

DLXXX.

JULY 18, 1820.

The Aliens Regulation Bill, 56 Geo. III, cap. 86, continued by 58 Geo. III, cap. 96, was expiring. It was proposed to continue it for two years more, and a Bill to this effect was read a second time on the 18th of July. The Act received the royal assent on the 24th of July, 1 Geo. IV, cap. 105. The debate is to be found in Hansard, new series, vol. ii, p. 530. The second reading was carried by 17 to 7. The following protest was entered.

Because we consider the continuance of this measure in time of peace, for reasons which have been often urged and recorded in the Journals of this House, equally inconsistent with sound policy and the spirit of our free Constitution; and in its operation, oppressive and unjust.

2ndly, Because the renewal of the Act under the present circumstances is unnecessary, and degrading to the character of the British nation.

John Bligh, Lord Clifton (Earl of Darnley).

Henry George Herbert, Earl of Carnarvon.
Henry Hall Gage, Lord Gage (Viscount Gage).
James St. Clair Erskine, Earl of Rosslyn.
George Eden, Lord Auckland.
Henry Richard Fox Vassall, Lord Holland.

DLXXXI.

AUGUST 17, 1820.

The first proceedings taken against the Queen was a message sent by George IV to the Houses, on the 6th of June. On the 8th of June, a Secret Committee of fifteen peers was chosen by ballot. On the 5th of July, the Queen petitioned to be heard by counsel on the subject of her petition, but a motion of Lord Dacre to that effect was negatived. The 'Bill of Pains and Penalties,' or the 'Queen's Degradation Bill' was then introduced by Lord Liverpool, and read for the first time. It may be found in Hansard, new series, vol. ii, p. 212. The House adjourned from the 25th of July to the 15th of August, and on the 17th of August the Duke of Leinster, on the motion for the order of the day, moved that the order be rescinded. This motion was rejected by 206 to 41, and the following protest entered.

1st, Because we fully concur in the opinion which has been expressed by the House of Commons, that the proposed enquiry would be disappointing to the hopes of Parliament, derogatory from the dignity of the Crown, and injurious to the best interests of the Empire.

2ndly, Because the institution of proceedings which are allowed to be anomalous to the spirit of the British Constitution, and which do not appear to be warranted by considerations of State necessity, is in our judgment inexpedient, and may be viewed with much suspicion by the people.

3rdly, Because it does not appear to us that any object which could be attained by the proposed enquiry, whatever may be its result, is of such importance as to be commensurate with the evils which, under all the circumstances of the case, may be expected to arise from it.

Philip Henry Stanhope, Earl Stanhope.
George Kenyon, Lord Kenyon, for the first and third reasons.
Alexander Hamilton, Duke of Hamilton and Brandon.
Augustus Frederic Fitzgerald, Viscount Leinster (Duke of Leinster).

George Capel, Earl of **Essex**.
John Russell, Duke of **Bedford**.
Robert Dundas Duncan, Viscount **Duncan**.
Thomas Foley, Lord **Foley**.
William Charles Keppel, Earl of **Albemarle**.
Peter Leopold Louis Francis Cowper, Earl **Cowper**.
Thomas Brand, Lord **Dacre**.
Arthur Blundell Sandys Trumbull Hill, Earl of **Hillsborough**
(Marquis of **Downshire**).
Peter King, Lord **King**.

DLXXXII—DLXXXIV.

AUGUST 19, 1820.

In the debate on the second reading of the Queen's Degradation Bill, Lord Grey moved, 'That it appears that the Bill now before the House does not afford the most advisable mode for prosecuting the charges against her Majesty, and that therefore under the present circumstances it is not necessary or expedient to proceed further with it.' This motion was rejected by 179 to 64, and the following three protests were entered.

Because in all the debates upon the principle of this Bill, and more especially upon the present, it was vindicated only by its supporters from the particularity of the case, as not being clearly, if at all, a proper subject of impeachment by the House of Commons: a proposition which we desire to deny on the Journal of this House.

Because her Majesty the Queen, even when only the wife of the Prince of Wales, was a public person, whose chastity was protected by the highest penalties of the criminal law, her fidelity being not only of the highest consequence to the security of the Kingdom, but her virtuous conduct and example essential for surrounding the Throne with the respect and affection of the people: adultery therefore in such a high public person, more especially such a publicly adulterous intercourse as is charged by this Bill, though circumstances prevented its falling within the Statute of King Edward III, as an act of high treason, was nevertheless and from that cause a high misdemeanor, and manifestly within the constitutional jurisdiction of Parliament by impeachment in the House of Commons, if from giving credit to the evidence, and under all the circumstances of the case, it had appeared to the wisdom and justice of that House to be a fit occasion for that constitutional mode of proceeding.

Because, if such misconduct in the Princess of Wales as is charged against her Majesty by this Bill, does not affect the dignity and character of the nation, as if committed when Queen, so as to bring it within the legal principle of a high misdemeanor, it must necessarily follow, that the preamble is false and unfounded, inasmuch as it alleges 'that by such conduct great scandal and dishonour had been brought upon his Majesty's family and this Kingdom.'

Because, if these propositions are true, this Bill, even upon the admission of its authors, ought not to have been brought into this House, nor ought now to be further prosecuted, being supported by no necessity or expediency whatsoever.

Thomas Erskine, Lord **Erskine**.

Edward Adolphus Seymour, Duke of **Somerset**.

Because every Bill of Pains and Penalties is a departure from the essential principles of public justice, which State necessity alone can warrant.

Because this Bill is a Bill of Pains and Penalties, and in this case no such State necessity has been proved to exist.

John Bligh, Lord **Clifton** (Earl of Darnley).

Henry George Herbert, Earl of **Carnarvon**.

Peter King, Lord **King**.

Sackville Tufton, Earl of **Thanet**.

Arthur Blundell Sandys Trumbull Hill, Earl of **Hillsborough**
(Marquis of Downshire).

Thomas Howard, Earl of **Suffolk and Berkshire**.

George Capel, Earl of **Essex**.

William Charles Keppel, Earl of **Albemarle**.

Thomas Brand, Lord **Dacre**.

Augustus Frederic Fitzgerald, Viscount **Leinster** (Duke of Leinster).

John Russell, Duke of **Bedford**.

George William Campbell, Lord **Sundridge** (Duke of Argyll).

Edward Smith Stanley, Earl of **Derby**.

George Eden, Lord **Auckland**.

Robert Grosvenor, Earl **Grosvenor**.

Because a Bill of Pains and Penalties is a departure from the ordinary course of justice, and ought not to be resorted to, without the strongest motives of public necessity or expediency.

Because we cannot admit that such grounds of public necessity or expediency can exist for proceeding in the present case by such

a Bill, on the charges against her Majesty the Queen, which might have been and may still be brought before us in our judicial capacity by impeachment.

William Frederic, Duke of Gloucester.

Charles Grey, Earl Grey.

Robert Montgomery Hamilton, Lord Belhaven and Stenton.

George Capel, Earl of Essex.

Robert Dundas Duncan, Viscount Duncan.

John Russell, Duke of Bedford.

George Eden, Lord Auckland.

Henry Fitzmaurice Petty, Marquis of Lansdowne.

Edward Smith Stanley, Earl of Derby.

Gilbert Eliot, Earl of Minto.

John Bligh, Lord Clifton (Earl of Darnley).

George Henry Fitzroy, Duke of Grafton.

William Henry Vane, Earl of Darlington.

DLXXXV.

OCTOBER 20, 1820.

During the course of the proceedings before the House of Lords, at the second reading of the Queen's Degradation Bill, Lord Lansdowne moved that 'John Allan Powell be directed to produce at the Bar of the House, sealed up, extracts from such parts of his correspondence with Colonel Browne, as relate to the causes of the mission of Giuseppe Restelli to Milan, and of his detention there.' This Restelli had been sent by Colonel Browne to Milan, for the ostensible purpose of procuring the legalisation of certain papers, and he had not thereafter appeared, an allegation being made that he was ill. As the absence of this person seemed suspicious, it was urged that the evidence which might be procurable from Mr. Powell's correspondence should be called for. Mr. Powell was the agent of Colonel Browne. The motion for the correspondence was carried by 122 to 79, and the correspondence was therefore supplied. The evidence is in the Lords' Journals, vol. liii, p. 732. The following protest was entered.

Because this resolution appears to be inconsistent with the principles upon which all courts refuse to compel the production of any part of the confidential correspondence of professional persons employed confidentially as such, in the matter to which the correspondence relates.

Because no particular circumstances in this case appear to be sufficient to authorize our not adhering to the rules of proceeding founded on those principles.

Because, therefore, this resolution, if acted upon as a precedent, may dangerously affect the administration of justice.

John Scott, Lord **Eldon** (Lord Chancellor).
Charles Douglas, Marquis of **Queensberry**.
George Douglas, Lord **Douglas of Lochleven** (Earl of Morton).
John Rous, Lord **Rous**.
Richard Grenville Brydges Chandos, Marquis of **Buckingham**.
Henry James Montagu Scott, Lord **Montagu**.
George King, Earl of **Kingston**.
John Sommers Cooks, Lord **Somers**.
Horatio Walpole, Earl of **Orford**.
John James Maxwell, Earl **Farnham**.
George Parker, Earl of **Macclesfield**.
Charles Compton, Marquis of **Northampton**.
George Kenyon, Lord **Kenyon**.
Edward Henry Pery, Earl of **Limerick**.
Edward Digby, Earl **Digby**.
James George Stopford, Lord **Saltersford** (Earl of Courtown).
Henry Richard Greville, Earl **Brooke and Warwick**.
Cropley Ashley Cooper, Earl of **Shaftesbury**.
George Gordon, Lord **Gordon** (Marquis of Huntley).
William Lowther, Earl of **Lonsdale**.
Charles Ingoldsby Paulet, Marquis of **Winchester**.
Hans Francis Hastings, Earl of **Huntingdon**.
William Murray, Earl of **Mansfield**.
John Freeman Mitford, Lord **Redesdale**.
George Gordon, Lord **Meldrum** (Earl of Aboyne).
George Fermor, Earl of **Pomfret**.
Edward Boscawen, Viscount **Falmouth**.
Montagu Bertie, Earl of **Abingdon**.
John Rushout, Lord **Northwick**.
Henry Conyngham, Marquis of **Conyngham**.
George Harris, Lord **Harris**.
George De Grey, Lord **Walsingham**.
Francis Napier, Lord **Napier**.
Robert Cotton St. John Trefusis, Lord **Clinton**.
Robert Smith, Lord **Carrington**.
William Shaw Cathcart, Earl **Cathcart**.
John Loftus, Lord **Loftus** (Marquis of Ely).
Somerset Lowry Corry, Earl of **Belmore**.
John Bourke, Earl of **Mayo**.
John Murray, Earl **Strange** (Duke of Atholl).
Francis Gray, Lord **Gray**.
James Ochoincar Forbes, Lord **Forbes**.
Robert Stuart, Earl of **Castlestuart**.
George William Coventry, Earl of **Coventry**.
William, Duke of **Clarence**.
Charles Cornwallis, Marquis **Cornwallis**.

Charles Bruce Brudenell Bruce, Earl of **Ailesbury**.
 John Pitt, Earl **Chatham**.
 Edward Clive, Earl of **Powis**.
 George Harry Grey, Earl of **Stamford and Warrington**.
 Edward Pellew, Viscount **Exmouth**.
 Charles Lennox, Duke of **Richmond and Lennox**.
 William Assheton Harbord, Lord **Suffield**.
 Howe Peter Browne, Lord **Monteagle** (Marquis of Sligo).
 John Thomas Townshend, Viscount **Sydney**.

DLXXXVI, DLXXXVII.

NOVEMBER 6, 1820.

The division on the second reading of the Queen's Degradation Bill was taken on the 6th of November. The second reading was carried by 123 to 95. The debates on the subject occupy the third volume of Hansard's Debates, new series. Two protests were entered, and seventy Peers entered their dissent without reasons.

Because the second reading of the Bill is equivalent to a decision that adulterous intercourse (the only foundation upon which the Bill can rest) has been satisfactorily proved.

Because that adulterous intercourse has been inferred, but not proved; and in a doubtful case, in which the imputed guilt is not proved, although innocence be not established, the benefit of that doubt, conformably to the principles of British justice, must be given to the defendant.

George Capel, Earl of **Essex**, for first reason only.
 Augustus Frederic Fitzgerald, Viscount **Leinster** (Duke of Leinster), for first reason only.
 Arthur Blundell Sandys Trumbull Hill, Earl of **Hillsborough** (Marquis of Downshire), for first reason only.
 William Murray, Earl of **Mansfield**.
 John Willoughby Cole, Earl of **Enniskillen**.
 George Kenyon, Lord **Kenyon**.
 Charles Lennox, Duke of **Richmond and Lennox**.
 Edward Harley, Earl of **Oxford**.
 George Child Villiers, Earl of **Jersey**, for first reason only.
 Edward Adolphus Seymour, Duke of **Somerset**.
 Henry John Peachey, Lord **Selsey**.
 Somerset Richard Butler, Earl of **Carrick**.
 Archibald John Primrose, Earl of **Rosebery**.
 George Henry Fitzroy, Duke of **Grafton**, for first reason only.
 John Parker, Earl of **Morley**, for first reason only.
 Thomas William Anson, Viscount **Anson**, for first reason only.

William Henry Vane, Earl of **Darlington**, for the first only.
Robert Montgomery Hamilton, Lord **Belhaven and Stenton**,
for the first reason only.

Because this proceeding, from its nature, cannot be assimilated to a common indictment, in which a conviction upon one count alone, out of many, is sufficient.

And because, although enough has been proved in evidence to satisfy us of the existence of guilt, yet as the evidence on many of the allegations has been contradicted, on some disproved, and on others is so suspicious as to be laid wholly out of the case, we are of opinion that it is inexpedient to proceed further in this measure.

Other Arthur Windsor, Earl of **Plymouth**.
Henry Stephen Fox Strangways, Earl of **Ilchester**.
George Talbot Rice, Lord **Dynevor**.
Edward Law, Lord **Ellenborough**, for second reason only.
Thomas Philip Weddel Robinson, Lord **Graham**.
William Basil Percy Feilding, Earl of **Denbigh**.
Du Pre Alexander, Earl of **Caledon**, for second reason only.
Robert Cotton St. John Trefusis, Lord **Clinton**, for second reason only.
Henry Hall Gage, Lord **Gage** (Viscount Gage), for second reason.

DLXXXVIII—DXCI.

NOVEMBER 10, 1820.

The motion that the Queen's Degradation Bill should be read a third time was carried by only nine votes, some of those who dissented apparently objecting to the clause enabling the King to marry again; 108 to 99. On this Lord Dacre moved that the Queen be heard by counsel against the passing of the Bill. Lord Liverpool then interposed, and said that in consequence of the majority being so narrow, he should move that the further consideration of the Bill be adjourned for six months. This was agreed to without a division.

Four protests were inserted.

Because no sufficient ground appears for the abandonment of the Bill founded on the charges against her Majesty the Queen, which had undergone the most solemn and accurate investigation;—charges in which the morality of the country was deeply interested, and on which all the Peers spiritual and temporal, who delivered their opinions, with very few exceptions, declared their convictions of her guilt, and the abandonment of which is

a dereliction which may bring into disrespect, not only the character of our highest court of judicature, but that of the nation itself. And it is with the deepest concern we observe the extreme want of consideration for our august sovereign, by the dereliction of proceedings so necessarily brought on, by which a wife declared by the House of Peers to have been guilty of adulterous intercourse with a menial servant, and of a conduct the most depraved, is to remain his Queen consort; thus lowering the dignity of the Crown, and embarrassing the country with far greater difficulties than those which seem to have induced his Majesty's government to relinquish the prosecution of the Bill.

John Baker Holroyd, Lord **Sheffield** (Earl of Sheffield).

Hugh Percy, Duke of **Northumberland**.

William Kerr, Marquis of **Lothian**.

William, Duke of **Clarence**.

Charles Bruce Brudenell Bruce, Earl of **Ailesbury**.

Because that in a case of this nature, in which this House appears to us, by its resolution to read the Bill a second time, by its proceedings in the committee upon the Bill and the report, and by its resolution to read the Bill a third time, to have strongly manifested, that in the judgment of a majority of this House, the guilt imputed in the preamble of the Bill had been clearly proved, we think that considerations affecting the justice and honour of the House made it fit that the Bill should pass.

Because this appears to us to have been the more fit in a case, in which so many Peers, who voted against the third reading of the Bill, had declared their conviction that the guilt imputed had been proved.

Because we also think that the House ought not, in considering whether the Bill should pass, after its having been read a third time, to have been influenced by any regard to what might take place in an enquiry in the other House of Parliament, as was suggested in the course of our debates, save only that we deem it to have been just that the party accused should have had an opportunity of calling for the judgment of both Houses, when this House, proceeding by a Bill of Pains and Penalties, had expressed in its resolutions a judgment unfavourable to that party.

Because we cannot but apprehend, that the resolution to adjourn

the further consideration of the Bill will lead to great misapprehension as to the real opinion of the majority of the Peers of this House, as it is to be collected from the antecedent proceedings, properly understood, with reference to the question upon the guilt imputed to the party accused in the preamble of the Bill.

William, Duke of Clarence.

John William Egerton, Earl of Bridgewater.

Cropley Ashley Cooper, Earl of Shaftesbury.

James Walter Grimston, Earl of Verulam.

1st, Because it has been clearly established by incontrovertible evidence, and confirmed by the votes and declarations of a great majority of the House of Peers, that the Princess of Wales (now Queen) did commit adultery with a foreigner, and because I know of no other tribunal where this crime against the State and against society can be punished, or the repetition of the offence be prevented.

2ndly, Because the failure of this Bill, unaccompanied by any other legislative or judicial proceeding, must encourage the commission of crime, and leave a great stain upon the honour of the throne, and the morals of the people.

William, Duke of Clarence.

George Harris, Lord Harris.

Because the guilt of her Majesty the Queen having, after the fullest investigation and consideration of the evidence adduced for and against her Majesty, been made out and established to the entire satisfaction of my honor and conscience, and the Bill of Pains and Penalties having in the most solemn and deliberate manner passed through its different stages, and received the sanction of this House to the third reading, I cannot allow of its abandonment at this period of the sedulous and exemplary attendance and labours of this House, without recording my protest against a measure which involves a dereliction of the sacred duty of administering justice by this House, and which suffers the most abandoned and licentious conduct to remain, if not triumphant, at least unpunished, to the disgrace of our country, in derogation of the honor and dignity of this House, and which tends to lower the first tribunal in the world in the estimation of this nation, of Europe, and of posterity.

For the above reasons.

William, Duke of Clarence.

Edward Clive, Earl of Powis.

DXCII.

APRIL 17, 1821.

Very numerous petitions had been presented against Roman Catholic disabilities, and others in favour of retaining these disabilities. A Bill was introduced into the House of Commons and finally passed 216 to 197. It was brought to the Lords on the 3rd of April, and read for the first time. The second reading, fixed for the 16th of April, was moved by Lord Donoughmore. Lord Mansfield proposed that it be read a second time that day six months. The debate was continued that evening and adjourned to the next day, when Lord Mansfield's motion was carried by 159 to 120. One Bishop voted in the minority, and one paired in favour of the Bill. Twenty Bishops voted and five paired against it. The following protest was lodged against the Bill; Lords Ponsonby, Grey, and Lauderdale heading the protest.

1st, Because the capacities and privileges which it was proposed by this Bill to grant to the Roman Catholics, especially including the privilege of sitting in Parliament, are already enjoyed, not only by the members of the Established Church, but also by all descriptions of Protestant Dissenters, who testify by oath their allegiance to his Majesty as the Roman Catholics are willing to do.

2ndly, Because a disability to sit in Parliament, or to hold any office of trust or profit under the Crown, being sometimes inflicted as a punishment upon persons convicted of heinous crimes and offences, the same disability, when applied to the Roman Catholics, solely on account of their religious belief, operates practically against them, however unjustly, as a kind of degradation, and appears in some measure to stigmatize them as criminals.

3rdly, Because it is undeniably true, that the Roman Catholic religion, be its errors or defects what they may, is the religion which was universally professed in England and Ireland prior to the reign of King Henry the Eighth, and in Scotland prior to the reign of King James the Fifth; and therefore the only general charge which can be brought against the Roman Catholics,

as such, is, that they have adhered steadfastly to the faith of their ancestors.

4thly, Because experience has proved, that however desirable the conversion of the Roman Catholics to the Established Church may be, yet this object has not been promoted by the continuance of the disabilities to which the Roman Catholics are by law subjected.

5thly, Because the happiest effects have resulted from the admission of the Roman Catholics to those privileges which they at present enjoy by virtue of different statutes passed during the reign of his late Majesty.

6thly, Because the disability to sit in Parliament was applied to the Roman Catholics at the time when the members of both Houses of Parliament were almost universally deceived by the impostures and false evidence of Titus Oates, who was a few years afterwards judicially convicted of perjury.

Richard Barrè Dunning, Lord **Ashburton**.

William Wentworth Fitzwilliam, Earl Fitzwilliam.

For the fourth, fifth, and sixth reasons.

Charles Grey, Earl Grey.

For all the reasons but the first.

Henry Richard Fox Vassall, Lord Holland.

DXCIII.

MAY 14, 1821.

By 1 and 2 George IV, cap. 47, the borough of Grampound was disfranchised and two additional knights of the shire were given to the county of York. The Bill was introduced in the Lower House by Lord John Russell. The plea for disfranchisement was the corruption which prevailed in the borough, practised there by Sir Manasseh Massey Lopes, who was fined and imprisoned for the offence at the Assizes in Cornwall, Michaelmas Term, 1819. The bribes paid to the electors ranged from £35 to £80,—see *Lords' Journals*, vol. liv, p. 324. The Commons gave the franchise to Leeds, but the Lords altered it to Yorkshire. The Bill was passed on the 24th of May, and the Commons agreed to the alteration on the 30th of May.

The following protest was entered by Lord Lauderdale, his motion for a committee of enquiry into the borough being rejected.

1st, Because, by rejecting this motion, this House appears to

me to avow its intention of punishing, by an *ex post facto* law, the innocent, however numerous, on the sole ground that some of their fellow freemen have given their votes from corrupt motives.

2ndly, Because I cannot conceive a proceeding which exhibits a greater and more unprincipled disregard of justice, than that of disqualifying the innocent as well as the guilty by an *ex post facto* law. To me it has always appeared, that the great object of punishment is to secure, by example, against the future commission of crime; but this Bill, if passed into a law, must infallibly tend to encourage and increase corruption amongst the electors of all the smaller boroughs in the Kingdom, for it proclaims to them, that the only difference betwixt giving their votes from pure and from corrupt motives is, that the corrupt will be punished under the existing laws, and the innocent by an *ex post facto* law, without any regard to the comparative number of those who are pure and those who are guilty.

3rdly, Because, after the doctrines recently held in this House, on the danger with which the Constitution of the country was threatened by an *ex post facto* law, in the shape of a Bill of Pains and Penalties, it is with the deepest regret I have seen this Bill receive the support with which it has been countenanced. It is true it is said that the right of voting is not private property, but a privilege vested for the benefit of the community, and that this Bill cannot therefore be called a Bill of Pains and Penalties; to me, however, it appears equally true, that privileges vested even in the highest in rank and station cannot be considered as private property, these too involving concomitant duties to the community; and the attempt to make such a distinction leads me seriously to dread the people at large will conceive that, contrary to all principles of British justice, a proceeding in this House is deemed to be wise and constitutional, when directed against the innocent poor, which is held to be dangerous and unconstitutional in the case of those whose station in life is high and elevated.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DXCIV.

MARCH 22, 1821.

The Timber Duties Bill, 1 and 2 George IV, cap. 37, was intended to stimulate the trade in colonial timber, and therefore imposed differential duties on foreign produce. It was attacked by Lord Lauderdale (who moved that the Bill be read that day six months) as a colonial job; by Lord King and Lord Lansdowne, and even by Lord Ellenborough, who supported the Government generally. Lord Lauderdale's motion was negatived without a division, and the following protest was entered.

1st, Because, whilst the speeches in this House and the reports of our committees display to the public an enthusiastic admiration of the most sound and liberal principles of commercial legislation, it is with feelings of the deepest regret that I have seen this House agree to the commitment of a Bill, which, instead of shewing any disposition to liberality in our future commercial intercourse with foreign nations, will, if recorded in our statute books, exhibit a specimen of our predilection for that illiberal, artificial, and restrictive system of regulation, which has long disgraced our commercial code, under all the circumstances of the case more disgusting than the arrangement it is intended to correct.

It is true the duties on timber and deals, as arranged by the 49 George III, cap. 98, 51 George III, cap. 43, 51 George III, cap. 93, and 53 of George III, cap. 33, had become highly oppressive; but it is equally true, that the hardship arising from an alteration in the circumstances of the country could not be apparent to the Legislature at the time of passing these Acts.

In this situation the timber trade, which is stated in the Commons report 'to be open to any modification in respect of the rate of duty, or mode of levying it, that Parliament might deem prudent,' naturally attracted the attention of the committees of both Houses of Parliament appointed to consider of the means of improving foreign trade; and in proportion as the merchants and manufacturers of this country must have read with satisfaction the reports of these committees, stating it to be 'the duty of the Legislature to mark their desire to foreign nations of adopting more liberal principles of commercial intercourse,' their disappointment must have been great, when they saw the provisions of this Bill openly sanction the hardship to which time and inadvertency had given rise.

Under the arrangements of these Acts, consolidated by the 59th of the late King, American timber was admitted duty free, whilst Baltic timber was subjected to a duty of £3 5s. per load; but in the year 1812, when this system was adopted, £3 5s. did not compensate the difference of freight betwixt an American and Baltic voyage, which then amounted to £3 10s.; and yet by this Bill, introduced for the avowed purpose of marking our desire to adopt more liberal principles, the relative state of the American and Baltic timber trade will be arranged as follows :

	£	s.	d.
Proposed duty on Baltic timber, per load of fifty cubic feet	2	15	0
Deduct duty to be imposed on American timber . . .	0	10	0
Remains	2	5	0

	£	s.	d.
Freight from Quebec, per load	2	10	0
Freight from Memel, per load	1	5	0
Difference	1	5	0

Deduct difference of freight on American timber . .	1	5	0
Remains the bounty which under the proposed regulations our colonies will enjoy	1	0	0

Thus, instead of imposing a duty, as in 1812, amounting to 5s. per load less than the difference of freight, the Legislature is called upon to prove its liberality to foreign nations, by giving a bounty to our colonies, over and above full compensation for the difference of freight, of no less than £1 per load.

Neither is this all; for the following calculations will shew,

1. That the duties imposed on deals from our colonies, when compared with the duties on that article from Russia and Prussia, must be ruinous to the trade of the latter.
2. That on a comparison of the duties imposed on deals from our colonies with the duties that will fall to be paid on Norway deals, the difference must effect a complete prohibition of that article from Norway.
3. That our love of regulation and restriction has even extended to our imposing duties on Norway deals, which,

when compared with the duties on deals from Russia and Prussia, must be ruinous to the Norwegian trade.

4. That, contrary to principle and to all former practice, a bounty is given to the foreign manufacturer of deals, which must annihilate the branch of industry in this country.

187.

Comparative Amount of Duties on Deal, from our Colonies, and from Russia and Prussia, converting the deals into loads of timber of 50 cubic feet; and shewing the advantage our colonies will have on each load of timber under the present arrangement.

	£ s. d.		
(1) 120 deals, 16 feet long, 3 inches thick, and 11 inches broad, contain 8 loads 40 feet cubic measure; and as 120 deals, 16 feet in length, are taxed at £19, this will amount, per load, to a duty of	2	3	2
120 American deals, of the same dimensions, are taxed at £2; this will amount, per load, to a duty of	0	4	6½
Difference of duty per load	1	18	7½
Deduct difference of freight, as above, betwixt America and the Baltic	1	5	0
Remains the real bounty given, per load, to our colonies on deals	0	13	7½
(2) 120 deals, 21 feet long, 3 inches thick, and 11 inches broad, contain 11 loads and 27 feet cubical measure; and as 120, 21 feet in length, are taxed at £22, this will amount to a duty, per load, of	1	18	1
120 American deals of the same dimensions, are taxed at £2 10s.; this will amount, per load, to a duty of	0	4	2½
Difference of duty, per load, which forms a bounty in favour of our colonies	1	13	10¾

	£	s.	d.
Deduct difference of freight betwixt America and the Baltic	1	5	0
Remains the real bounty given, per load, to our colonies on deals	0	8	10½

2NDLY.

Comparative Amount of Duties on Deals from our Colonies and from Norway, converting the deals into loads of timber of 50 cubic feet, and shewing the advantage our colonies will have on each load of timber, under the present arrangement.

	£	s.	d.
(1) 120 Norway deals, 12 feet long, 3 inches thick, and 9 inches broad, contain 5 loads 20 feet cubical measure; and as 120 12-feet deals are taxed at £19, this will amount per load to a duty of	3	10	4
120 American deals of the same dimensions are taxed at £2; this will amount per load to a duty of	0	7	4½
Difference per load	3	2	11½
Deduct difference of freight betwixt an Ameri- can and Norway voyage	1	10	0
Remains the real bounty given to our colonies	1	12	11½
(2) 120 Norway deals, 8 feet long, 3 inches thick, and 9 inches broad, contain 3 loads and 3 feet cubical measure; and as 120 deals, 8 feet in length, are taxed at £19, this will amount per load to a duty of	5	5	6½
120 American deals of the same dimensions, are taxed at £2; this will amount per load to	0	11	1½
Difference of duty per load	4	14	5½
Deduct difference of freight betwixt an Ameri- can and Norway voyage	1	10	0
Remains the real bounty given to our colonies	3	4	5½

3RDLY.

Comparative Amount of Duties imposed by this Bill on Deals from Norway and from Russia, resulting from the circumstance that Norway deals cannot be had, so as on an average to exceed 12 feet in length, and 9 inches in breadth, whilst Russian deals are always 11 inches broad, and may easily be had 16, or even 21 feet long.

£ s. d.

(1) 120 Norway deals, 12 feet long, 3 inches thick, and 9 inches broad, contain 5 loads and 20 feet cubical measure; and as 120 such deals are taxed at £19, this will amount per load to a duty of	3	10	4
120 Russian deals, 16 feet long, 3 inches thick, and 11 inches broad, contain 8 loads and 40 feet cubical measure; and as 120 such deals are taxed at £19, this will amount per load to a duty of	2	3	2
Advantage per load which the Russian deals will enjoy under this Bill over the Norwegian deals	1	7	2
(2) 120 Norway deals, as above, per load	3	10	4
120 Russian deals, 21 feet long, 3 inches thick, and 11 inches broad, contain 11 loads and 27 feet cubical measure, and as 120 such deals are taxed at £22, this will amount per load to a duty of	1	18	1
Advantage per load which the Russian deals will enjoy under this Bill over the Norwegian deals	1	12	3
(3) 120 Norway deals, 8 feet long, 3 inches thick, and 9 inches broad as above, pay per load	5	5	6
12 Russian 16-feet deals pay per load as above	2	3	2
Advantage per load which the Russian deals will enjoy under this Bill over the Norwegian deals	3	2	4

	£	s.	d.
120 Norway 8-feet deals as above pay per load .	5	5	6
120 Russian 21-feet deals pay per load . . .	1	18	1
Advantage per load which the Russian deals of these dimensions will under this Bill enjoy over the Norwegian deals	3	7	5

4THLY.

Statement shewing that the bounty given to Russian Deals by the present Bill must destroy the manufacture of that article in this country.

	£	s.	d.
(1) Russian timber pays per load	2	15	0
Russian deals, 16 feet long, 3 inches thick, and 11 inches broad, &c., pay per load	2	3	2
Direct bounty	0	11	10
Further, as the duty on the waste and on the extra measure, with the low duty on slabs, amount to 25 per cent. on the duty on the deal, this gives an advantage of	0	10	9
Total bounty in favour of the foreign deal manu- facturer, per load	1	2	7
(2) Russian timber, as above, per load	2	15	0
Russian deals, 21 feet long, 3 inches thick, and 11 inches broad, &c., pay per load	1	18	1
Direct bounty	0	16	11
Further duty on waste, as above	0	9	6
Total bounty in favour of the foreign deal manu- facturer, per load	1	6	5

2ndly, Because it appears to me that this House will treat with undeserved contempt the decision of their own Committee, 'That it is expedient only to compensate to the Canadian importer of timber the difference of freight and transport,' as well as the desire expressed by the Committee of the Commons House of Parliament, 'of adopting in our intercourse with foreign nations more liberal principles than those which have hitherto guided us,' if they sanction

a bounty in favour of our colonies, of nearly 100 per cent. on the value of raw material, which will be the case if £1 per load of timber is given in the shape of bounty over and above compensation for the difference of freight.

Besides, I must be of opinion that it is a measure highly injurious to the interests of the people of this country; for, whilst it is undoubtedly proved that American timber is far less durable than that of the Baltic, and that the trade is of little or no advantage except to what is called the shipping interest, I cannot forget that timber used in building, if it perishes, inflicts upon the people of this country the loss of the materials with which it is worked up, amounting at least to four times its own value, and that the Committee of the House of Commons have in their report stated with great truth, that the policy most advantageous for this country is to obtain timber of the best quality, and at the lowest price, without reference to the quarter from which it is derived.

3rdly, Because, whilst I applaud the wish expressed by the Committee of the House of Commons, of marking to foreign nations our desire in the arrangement of the timber duties to adopt more liberal principles than those by which our commerce with them has been hitherto governed, I must reprobate that unprecedented and unprincipled love of regulation and restriction exhibited in this Bill to such an extent, that duties are laid on deals from Norway, a country that always admitted our manufactures at comparatively low duties, which, when compared with the more moderate duties imposed on deals from Russia, a country which has recently increased its extravagant duties on our manufactures, can leave no doubt that a bounty of nearly 100 per cent. on the value of the commodity is given to the latter.

4thly, Because, though I agree in the prevalent opinion, that our commercial code displays too much jealousy of foreign industry, and too great a desire to procure, by prohibitory duties to our own industry, a monopoly of the home market; yet I was not aware that the policy of a contrary system, viz. that of securing to foreign industry a monopoly of the home market, had ever been maintained even by the wildest theorist, far less could I have imagined that such a system would ever have been acted upon by the Legislature of any country; yet by the unprincipled and extraordinary arrangements of this Bill, it is impossible not to admit that a

bounty is substantially given to the Russian and Prussian manufacturers of deals, in no instance less than £1 2s. 7d. per load, a sum which must annihilate all attempts on the part of the home manufacturer to compete in that article.

5thly, Because, injurious to the country as it must be to force into use, at an advanced price, timber of an inferior quality, subject to premature decay, it appears to me that this is far from being the most serious calamity with which the proposed arrangement threatens this mercantile country.

Since the restoration of peace, the tables of this and the other House of Parliament, have been crowded with petitions from our merchants and manufacturers, in which, convinced of the great truth that commerce is an exchange of equal value for equal value, and that it is impossible for goods to be imported into this country without an equal value of our commodities being exported, they have strenuously enforced the necessity of doing away that restrictive, protective, and prohibitory system which has disgraced our commercial arrangements, anxiously urging that by gradually adopting this line of conduct, we should not only afford relief to a suffering people, but secure to them important benefits, from the example this alteration of system would hold out to foreign nations.

To me, therefore, it appears the greatest of all calamities to see this House adopt a Bill, which, in regulating that branch of commerce that has first come under the consideration of Parliament, not only prejudices the interests of foreign nations, without any material benefit to our colonies, by forcing into use an article of colonial produce they could furnish cheaper and of a superior quality, but by a partial arrangement of duties, regulates the comparative degree of intercourse we shall enjoy with other countries; thus at once unjustly sacrificing to the proprietors of shipping, who can alone derive advantage from it, the interest of the British consumers, and annihilating the reasonable expectations of benefit which our merchants hoped to derive from unrestrained commerce, by setting the example of illiberal preferences that will render it impossible for us to negotiate with foreign countries with any chance of approximating to that freedom of intercourse which, if it could be established, must redound equally to the advantage of all.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

DXCV, DXCVI.

JUNE 13, 1821.

By 1 and 2 George IV, cap. 53, the proceedings in the civil side of the King's Bench, Common Pleas, and Exchequer in Ireland were regulated, changes were made, and compensations were granted. An attempt was made to throw out the Bill, but this was unsuccessful, and the two following protests were entered.

1st, Because, from the rapidity with which this Bill has been pressed forward through the Upper House of Parliament, since it has been taken under the powerful patronage of the noble Viscount, the two reports of the commissioners of inquiry in Ireland, on which its enactments avowedly rest as their exclusive foundation, containing 447 closely printed pages of the most important matter, and which had been upon the table of the other House since Nov. 1819, not having been submitted to their lordships till four days before they were called upon to adopt the principle of this measure, by giving a second reading to the Bill, though I had earnestly solicited such an interval as would have enabled me to have perused these voluminous documents, upon which it is now necessary for me at once to decide, a mode of reasoning would seem to have been sanctioned, not very respectful to the independence of this branch of the legislature, viz. that the right to deliberate *de arduis regni* was not within the province of their lordships; but that this House was placed by the Constitution as a convenient stage, for the sole purpose of speeding to the Throne, with its ready fiat, and almost without the formality of any previous inquiry, the results of the deliberations of the other House, whatever these results might happen to be.

2ndly, Because, deprived, as I have already shewn the House to have been, of any available consideration of the Reports of the Commissioners of Enquiry, I have still farther to complain, that several little less important documents, viz. the communications between the Irish judges and the government of that country, upon the special subject of these Bills, and which had been called for by myself, have not been, to this very moment, placed in their lordships' hands.

3rdly, Because this Bill, which has been thus pressed through the House without due consideration, or any adequate opening or

explanation of its several enactments, introduces, notwithstanding, important alterations in the proceedings of the Courts of Common Law in Ireland, by the substitution of certain established salaries in lieu of that principle of fees which had subsisted therein from time immemorial, and which is still to be retained in the practice of the common law courts of this country; and inasmuch as this violent departure from long-established usage, though adopted not without difficulty, and in a qualified way, by the Irish Courts of King's Bench and Common Pleas, is decidedly rejected, in an able and argumentative statement, by the whole of the talented Court of Exchequer in that country.

4thly, Because the noble and learned lord who holds the Great Seal, and presides upon the Woolsack in this House, and another noble and learned Baron, who had heretofore held the Great Seal in that country to which this Bill particularly relates, being the only professional peers who have expressed any sentiment upon the subject, have avowedly thrown the whole weight of their high authorities against the proposed innovation, in the substitution of salaries for ancient and accustomed fees, by their unequivocal declaration that they would never have thought of introducing such a change into the proceedings of the courts of justice here; and because it was my earnest solicitation to those noble persons, to whom I had the honour of addressing myself, that they would be pleased to continue to that part of the United Kingdom which has sent me here, that invaluable privilege, the administration of the English law according to the principles and the practice of jurisprudence in this wise and enlightened country.

5thly, Because, if this substitution of established salaries in lieu of fees had been taken up by the Commissioners of Enquiry as a beneficial alteration in the proceedings of the courts of justice in Ireland, it ought surely to have been recommended by them as a general principle, affecting equally the practice in the Courts of Equity as in those of Common Law; whereas there is now upon the table of the House, and proceeding *pari passu* with this measure, a Bill, under the sanction of the same Commissioners, leaving the principle of fees untouched in the Court of Chancery in that country, and giving to the person who may happen to hold the Great Seal there, with the co-operation of his Master of the Rolls, the high privilege of becoming himself a legislator upon the subject

of fees, with the full power of increasing or diminishing, or entirely abolishing any particular fee, at his pleasure, and with the further power of directing the payment of any new fees from time to time, provided he reports such ordinances of his to both Houses of Parliament, at the period of their being next assembled.

6thly, Because, though perfectly satisfied of the existence of that system of speculation and extortion which has been carried on for such a series of years, and, in some instances, a dereliction of the most important duties towards the public, of so grave a kind as to have thrown into jeopardy property to a fearful extent, all which has been so fully developed by the indefatigable industry, the honest exertions, and the firmness and integrity of the Commissioners of Enquiry, and which they did their duty by denouncing to the constituted authorities more than two years since, I am not equally convinced that this Bill affords the proper and the only remedies for evils of so crying a nature, by giving to the prerogative the power of granting certain large pensions,—of creating a mass of new places with yearly salaries,—and inflicting upon Ireland, already sufficiently aggrieved, important deviations from the English modes of administering the law; and because I confess, that I have, on the contrary, waited in anxious expectation of the development by authority, either here or in the other House, of those proceedings which it may be the intention to institute against the delinquents, whoever they may happen to be, and amongst which I am not disposed to reckon the denunciations which we have lately heard, through the medium of the public press, against a learned judge of high talents and great professional acquirements.

And, lastly, Because this measure is obviously defective, in not making a complete arrangement for the future discharge of the public business in the different courts of law, and the disposal of the persons heretofore employed therein, inasmuch as, notwithstanding the pensions and the salaries created by this Bill, we have ourselves received the petitions of sundry individuals, who complain that they have been deprived by its provisions of their vested rights; and we have heard it asserted in debate, that there are now upwards of thirty persons claiming compensation for such alleged injuries, before a committee in another place.

Richard Hely Hutchinson, Earl of Donoughmore.

1st, Because the Bill, so far especially as it respects the several subordinate officers in the several Courts therein mentioned, is a departure from the ancient establishment adopted in Ireland with the English laws, and after the example of England, where the ancient establishment still remains, and is not productive of those inconveniencies which have been attributed to the establishment in Ireland; and therefore the Preamble of the Bill, importing that it is expedient to regulate the proceedings in the Courts therein mentioned, and the several officers thereof, in manner provided by the Bill, is, especially with respect to such subordinate officers, not only not proved, but is rendered at least very doubtful, by the experience of ages in England; and at the same time, instead of adopting a similar novelty with respect to the Court of Chancery in Ireland, it has been proposed to continue the ancient establishment in that Court, with such regulations as may tend to prevent abuses; and similar regulations might have been adopted with respect to the Courts which are the objects of this Bill, so as to prevent the continuance of the abuses complained of in those Courts, as effectually as in the Court of Chancery.

2ndly, Because the regulations proposed by this Bill, providing for the remuneration of the subordinate officers therein mentioned, by fixed salaries instead of fees, will probably have the effect (according to experience in various instances) of producing a want of diligence and attention in those officers, by not proportioning their reward according to the quantity of business transacted by them respectively; and although such regulations may be expedient with respect to the judges of the several Courts, whose diligence and attention to the duties of their respective offices are open to public view, and in some degree the same controul may apply to the officers stiled in the Bill principal officers, the conduct of subordinate officers is not exposed to the same control, and will not be regulated by the same influence.

3rdly, Because the regulations proposed by the Bill will have the effect of putting an end to that system of education, by apprenticeship in early life for the duties of the subordinate officers in the several Courts, which has hitherto prevailed, and by which persons have been from time to time qualified for the discharge of those duties, confiding in the practice of the Courts, which have not allowed of the removal of the several clerks so qualified without

just cause ; and although the inconvenience which may be produced by the discontinuance of this practice may not be immediately felt, inasmuch as many of the persons now employed may probably continue to be employed in the same offices, yet it is probable that at no great distance of time, when those persons shall cease to exist, or shall be disabled by age or infirmities, persons so educated will not be found to supply their places, and many of the subordinate officers will necessarily be persons who will have had no instruction in the duties of their respective offices prior to their respective appointments, which may be very injurious to the conduct of business in those Courts.

4thly, Because, by the provisions in the Bill, the clerks and assistants therein mentioned, as well as the persons to be employed to do the business of writing, copying, and engrossing, are to hold their offices during the pleasure of the officers by whom they are to be appointed ; and it is also provided, that it shall not be lawful for any person who shall be appointed to any office in any of the said Courts, to hold or exercise the duties of any other office or place whatsoever, except that the offices of clerk of the jurors and essoigns, and clerk of the outlawries, in the Common Pleas, may be held by the clerk of the juries in the same Court ; and it is not to be expected that respectable persons, properly qualified to discharge important duties, will take offices from which they may be removed at pleasure, under such circumstances, except as some of the persons who will be deprived by this Bill of the offices which they now hold, and which they have considered as permanent during their good behaviour, may be induced by necessity to take the offices of clerks or assistants during pleasure, and to do the business of writing, copying, and engrossing, to obtain that subsistence of which they will be by this Bill deprived.

5thly, Because, by an Act passed in the Parliament of Ireland in the eighth year of the reign of his late Majesty King George the First, the prothonotaries of the Courts of King's Bench and Common Pleas, and the clerk of the pleas of the Court of Exchequer, and their several and respective deputies for the time being, are required to make searches for judgments entered since the 29th of May in the year 1660, or which may be entered in any of the said Courts respectively, and to certify concerning such searches, and are made liable to answer in damages to any person

who may be aggrieved or damnified by any fraud, collusion, or wilful neglect in making out any such certificate ; and inasmuch as no fee or reward is, according to the provisions of this Bill, allowed to the person required to make any such search, such officers may be wantonly harassed, under the provisions in the said Act ; and at the same time the said prothonotaries and clerk of the pleas, being by this Bill made responsible for their clerks and assistants, who must be intrusted to make such searches, may be liable to answer in damages for any misconduct of their clerks and assistants in making such searches, although by the said former Act such damages could only be recovered against the person guilty of such misconduct.

6thly, Because, by this Bill many persons will be deprived of offices which they had been led by legal decisions to conceive they held during good behaviour, and for which they had qualified themselves by apprenticeship, and to which they had devoted their lives during many years, and by such deprivation of office may lose their only means of subsistence ; and it has not been shewn that such offices were not holden by law during good behaviour, or that such persons could be turned out of such offices, except for misbehaviour, without the authority of Parliament.

7thly, Because, by the said Bill a new provision is made for the taxation of costs in all the said three Courts of King's Bench, Common Pleas, and Exchequer, and in the Court of Error commonly called the Exchequer Chamber, and Court of Appeals mentioned in the said Bill, by two officers, to be appointed for that purpose, as mentioned in the Bill, for which change of the ancient law no sufficient reason has been shewn ; and unless the persons so to be appointed shall be sufficiently instructed in the nature of the business which may be transacted in such Courts respectively, such persons cannot be so well qualified to discharge such duty as the officers of the several Courts now intrusted to perform the same ; and such taxing officers cannot be constantly attendant on the said Courts, to give information to such Courts on the subject of costs, as the officers now intrusted with that duty in the several Courts now are ; and the said taxing officers have not by the said Bill sufficient powers to enable them to perform the duties imposed on them, so effectually as such duties may be discharged by the persons now intrusted therewith ; and not being allowed by the

provisions in the said Bill any clerks or assistants, or any office for discharge of their duties, and keeping the bills of costs to be brought before them for taxation, and such other written documents as they may be obliged to make and preserve in the discharge of their duties, they must necessarily employ clerks or assistants to enable them to discharge several of the duties imposed upon them, and must have one or more office or offices, and must pay such clerks or assistants, and the hire of such office or offices, out of the salaries allowed to them by the Bill; and inasmuch as the attendance required of such taxing officers by the Bill is almost constant throughout the year, it is not probable that persons will be found to accept such offices, who will be so respectable, and so well qualified to discharge the duty of taxing costs, as the several officers now intrusted with such duty in the several Courts.

8thly, Because the provision made by the said Bill, requiring the several officers of the Courts of King's Bench, Common Pleas, and Exchequer, thereby authorised to take affidavits and affirmations, to give attendance for that purpose, and especially to attend persons who may be or pretend to be confined by illness, may be made very harassing to such officers, and interfere with their other duties in a manner very inconvenient to the Courts of which they shall be officers, and will necessarily confine at least one of such officers belonging to each of such Courts during every day in every year, except Sundays, Good Friday, and Christmas-day, in Dublin; and the imposition of such constant and harassing duties on such officers will tend in future to prevent respectable persons, properly qualified, taking such offices.

9thly, Because some of the clauses in the said Bill are contradictory or repugnant to other clauses therein, so far at least as to tend to raise doubts concerning the true construction thereof.

10thly, Because the introduction of a system so entirely new in the subordinate offices of Courts of Justice is at least a hazardous experiment, and the necessity for the adoption of such experiment, instead of the ancient practice, has not been sufficiently proved.

John Freeman Mitford, Lord Redesdale.

DXCVII.

JULY 2, 1822.

The Act 3 George IV, cap. 75, amends certain provisions of 26 George II, cap. 33, for the better preventing of clandestine marriages. During the passage of the Bill, Lord Stowell proposed that certain words which established the validity of marriages between minors without the consent of their parents should be omitted. His proposal was rejected, and the following protest was inserted.

Because it appears to me that the withdrawing the effect of nullity from the marriages of minors, had without the consent of parents, is likely to produce more and greater mischiefs than such as can fairly be considered as resulting from the general operation of the subsisting Marriage Act.

William Scott, Lord Stowell.

DXCVIII, DXCIX.

JULY 2, 1822.

The Act referred to above contained a retrospective clause, making marriages without consent valid, if not otherwise invalid. Lord Eldon moved certain clauses which would have the effect of repealing these provisions, but he was defeated by 68 to 18. Certain other amendments having similar objects were lost by 51 to 27 and 48 to 31. Lord Eldon spoke with great warmth against the measure. The third reading was carried by 41 to 18.

The following protests were inserted.

1st, Because the Bill proposes to repeal retrospectively a law which has endured and been acted upon nearly seventy years, governing the rights of persons and of property; and such repeal is therefore a dangerous precedent, destroying all confidence in rights founded on existing law, and threatening, by its consequences, the destruction of all law.

2ndly, Because the injustice and impolicy of repealing the law retrospectively is acknowledged by the several qualifications introduced into the Bill to limit the effects of such retrospective repeal, and yet clauses offered further to limit such effects were rejected, and many inconveniences foreseen therefore remain unprovided for, and there may probably be many unforeseen, and to which human foresight cannot extend.

3rdly, Because whatever evils may have arisen from the effects in some instances of the law proposed to be repealed, the evil of a retrospective repeal of a law which has so long endured is much greater, considered as a precedent, which may be used to justify the grossest injustice.

John Scott, Earl of **Eldon** (Lord Chancellor).

John Freeman Mitford, Lord **Redesdale**.

Cropley Ashley Cooper, Earl of **Shaftesbury**.

Charles Abbot, Lord **Colchester**.

1st, For the above reasons, and also because the Bill is not, either with respect to marriages heretofore had without the consent of putative fathers, or heretofore had without the consent of natural and lawful fathers, founded upon misapprehension of the law creating any such general practice as in my judgment can authorise the House to legislate as in this Bill retrospectively with respect to such marriages.

2ndly, Because the House, having refused to insert clauses in the Bill saving vested rights, and rights acquired by purchasers of estates for good or valuable considerations from persons by the law of the land intitled to sell or settle such estates, appears to me, by this measure, to have acted contrary to the principles which have hitherto secured to the subjects of this country their property, and to have rendered the Bill, if otherwise fit to pass into a law, such as no reasoning can sanction, and no precedents can justify.

John Scott, Earl of **Eldon** (Lord Chancellor).

Cropley Ashley Cooper, Earl of **Shaftesbury**.

Charles Abbot, Lord **Colchester**.

For the second reason,

James Walter Grimston, Earl of **Verulam**.

William Scott, Lord **Stowell**.

John Thomas Townshend, Viscount **Sydney**.

John Jeffreys Pratt, Marquis **Camden**.

DC, DCI.

JULY 10, 1822.

The Corn Law Act of 1822, 3 Geo. IV, cap. 60, establishes a sliding scale of import duties on foreign and colonial corn. When the price of wheat was under 80s. foreign corn could be imported for the first three

months at 17s., afterwards at 12s. If above 80s. and under 85s. at 10s. and 5s. If over 85s. at 1s. Similar duties were levied on rye, peas and beans, barley, bear or bigg, and oats. The same scale of duties were levied on colonial corn when wheat stood below 67s., between 67s. and 71s., and over 71s. Ground rye, peas, beans, maize, and barley were prohibited, as also all malted grain. The following protests were entered.

Because this Bill repeals the regulations, as enacted in the 55th of George III, cap. 26, whereby, after long and minute examination into the state of the agriculture of the United Kingdom, it was by Parliament provided, as necessary to afford to agriculture a degree of protection equal to what the law gives to other branches of industry, that wheat from abroad should not be exposed to sale till the price in our markets amounted to 80s.; and, at a time when it is admitted foreign wheat can be imported at 35s. a quarter, it enacts, that the foreign grower shall, in future, be admitted to a competition with our farmers, when wheat is at 70s. a quarter, on paying a duty of 17s. for the first three months, and afterwards of 12s., till it rises to 80s.

Under this Bill, therefore, the farmer will not only be deprived of the monopoly he enjoyed in the home market, till wheat attained the price of 80s. the quarter, but he will be exposed, when it is at 70s., to a competition with the foreign grower, whose wheat, value 35s., may, on paying the duty of 17s., be brought into our market at 52s. per quarter, and, after the ports have been open for three months, may be sold at 47s., as it will be then only liable to a duty of 12s.

That these regulations are ruinous to the agricultural interests cannot be doubted; the petitions on the table of this House, in the strongest terms deprecating the proposed alteration in the law, sufficiently display the opinion of those whose habits give them practical knowledge on the subject; whilst the Committee themselves, from whom the proposal emanated, by disclaiming all intention of rendering the present condition of the British cultivator worse, and proposing, as the Bill enacts, that the 55th of the late King should remain in force till wheat rises to 80s. a quarter, have clearly avowed their opinion, that the Bill, when it takes effect, must prove injurious to the agricultural interest.

It is to me, therefore, a subject of deep regret, when the distress of the British cultivator is so feelingly described in the numerous

petitions on our table, that this House should enact a regulation, which, though it is only to take place at a future period, cannot but produce immediate discontent.

For to me it appears, that every sense of political discretion, and every feeling that actuates a generous mind, must unite in pointing out, that the moment in which the Legislature is unwillingly compelled to avow its incapacity of devising any means of present relief for the distressed farmer, is the time, of all others, in which it ought to avoid announcing a future injury to his despairing mind.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

1st, Because the Act of the 55th of the late King, chapter 26, which is partially repealed by this Bill, was brought into Parliament by his Majesty's ministers to remove the admitted impolicy of unlimited importations of foreign grain, and 80s. per quarter for our own wheat (other grain in proportion) was, with the greatest deliberation, adopted as the lowest price in our markets which could sustain foreign competition; under which, therefore, it was enacted that our ports should be shut.

2ndly, Because, from an obvious defect in that Act, whenever wheat in our markets arose to 80s. per quarter (other grain in proportion) importation was left free and unlimited, by which the protecting standard immediately ceased to be protective, as foreign wheat might then generally be imported, to any extent, at from 32s. to 35s. per quarter, thereby enabling jobbers and speculators to undersell British growers, weighed down since the late war by a pressure of taxation never before known or heard of in the world.

3rdly, Because this defect in the Act of the 55th of the late King soon became the subject of universal complaint, three millions and a half quarters of foreign grain having come free into our ports, imported at very low prices, before they were closed in February, 1809, to the great depression of our markets ever since.

4thly, Because the prices of grain from this and other causes having ceased to be remunerative, many petitions were presented to his Majesty's ministers, and to both Houses of Parliament,

praying for relief in this respect ; and thereupon a Committee was appointed to consider the justice of these complaints.

5thly, Because such Committee, as appears by its report in a former session of Parliament, having pronounced that agriculturists of every description were consuming their capitals in the cultivation of the soil, without any present or expected returns, which could be remunerative, the House of Commons directed its enquiries to be renewed in the present Session, for the express and only purpose of originating some further relief from the ruinous depression of our markets.

6thly, Because the House of Commons, therefore, in the consideration of this subject, had no other duty cast upon it by the whole course of its own proceedings, but to attend impartially to the universal complaints throughout the country, which unanimously attributed their distresses to the undue and impolitic opening of the ports under the existing law, without a reasonable and fixed protecting duty, not liable to be defeated by fraudulent averages, nor disturbed by perpetual fluctuations from unlimited importations when the ports were open at the adopted standard.

7thly, Because it was, therefore, with equal surprise and regret, that I read this Bill when it was brought before us, which ought instantly to have been rejected, since it passes by altogether the complaints of the petitions, which its authors have professed all along to act upon and relieve ; and although the superabundance of supplies over the demands in our markets had been declared by his Majesty's ministers to be the grievance, yet this Bill unaccountably adds to them without measure or mercy, by leaving the ports open at 70s., though shut before until 80s., and by letting loose the bonded grain at the lower standard, now in the country to a great amount, without any protecting duty, because, when it is notorious that foreign wheat (and other grain in proportion) may be generally imported at from 32s. to 35s. per quarter, a duty of 17s., which when added amounts to 52s. or 55s. only, cannot in common sense or in common honesty be considered as any security to the British grower.

8thly, Because to insist, nevertheless, that this injurious change in the existing law is a great advantage to those whom it professes to relieve, though against their universal voice, as expressed, without a single exception, by all the petitions upon our table, is to

maintain an opinion which, however ably and honestly supported, may be considered by the sufferers to be as unfounded as it appears to me to be absurd.

9thly, Because, from the great preponderance in the representation of other classes over the landed interest in the House of Commons, the petitioners, who have laid their calamitous condition before us, naturally looked up to this House for constitutional support. The Statute Book is filled with almost innumerable Acts for the protection of our manufactures and commerce by duties and prohibitions, whilst the security of landed property has been almost wholly neglected. Indeed, when I contemplate this sudden invasion of the 55th of the late King, at the very moment when its protecting provisions ought manifestly to have been extended, it seems to me as if a course of experiments was on foot by philosophical theorists, to ascertain under what accumulated pressure of unequal taxation and unequal competition with untaxed countries the impoverished cultivators of our soil can possibly continue to exist.

Thomas Erskine, Lord Erskine.

DCII—DCV.

JULY 29, 1822.

The Aliens Regulation Bill, 56 Geo. III, cap. 89, was continued for two years more by 3 Geo. III, cap. 97. The continuance was strongly opposed by Lord Darnley and Lord Holland, but was carried by 22 to 6. The following protests were entered.

1st, Because the Bill is cruel, for even when not perverted to any improper purposes, it may deter the victims of civil or religious persecution abroad from seeking refuge under the laws of a free country.

2ndly, Because the Bill is unjust; it exposes all resident aliens (such even as may have settled here in consequence of no such law existing at the time) to actual punishment without trial; and it condemns even the most unsuspected among them to an evil greater than most punishments, a dependence on the arbitrary will of one man.

3rdly, Because the Bill is unnecessary, there being no unusual resort of strangers to this Kingdom, and no apprehension, real or

pretended, that individual foreigners either possess the means or harbour the design of disturbing our internal tranquillity.

4thly, Because the Bill is unconstitutional; it creates a power liable to abuse, and unknown to our laws; and arbitrary authority has always been thought to degrade those who are the objects of it, and to corrupt those who possess it, and thereby to lead to tyrannical maxims and practices, incompatible with the safety of a free people.

5thly, Because the Bill is impolitic; it discourages the employment of foreign capital, and the exercise of foreign ingenuity, in our country, and obviously tends to embroil us with our Courts of Europe, by rendering the residence of any obnoxious individuals among us an Act of the State, and no longer a consequence of the hospitable spirit of our municipal laws.

Henry Richard Fox Vassall, Lord **Holland**.

James St. Clair Erskine, Earl of **Rosslyn**.

Sackville Tufton, Earl of **Thanet**.

Because by this Bill the Secretary of State is authorised to convey an alien to any foreign port, and there to deliver such alien into the hands of his mortal enemies, to subject him to perpetual imprisonment, to corporal punishment, to torture, or to death.

Henry Hall Gage, Lord **Gage** (Viscount Gage).

Henry Richard Fox Vassall, Lord **Holland**.

Because I should have thought it exceedingly hard had I done my duty, and opposed the invasion of revolutionary France to the utmost of my power, (as I have always understood an Englishman should, and failing, had escaped to America,) to have been sent back to London, to be shot or hanged, drawn and quartered, for my patriotism.

Henry Hall Gage, Lord **Gage** (Viscount Gage).

Because the Bill confers an arbitrary power, which may be employed to promote the views and secure the authority of foreign and tyrannical governments; and even if not so employed, may yet be considered by them as intended to serve such purposes. In either case, the measure appears to us injurious to the character and interests of Great Britain, and hostile to the liberties and welfare of mankind.

James St. Clair Erskine, Earl of **Rosslyn**.

Henry Richard Fox Vassall, Lord **Holland**.

DCVI.

FEBRUARY 4, 1823.

The Speech from the Throne, read by the Chancellor, admitted the great distress which affected the agricultural interest, and, as usual, the Address repeated the words of the Speech. Lord Stanhope moved as an amendment, 'That the House will immediately proceed to examine the nature and causes of the distress, the results which have arisen from altering the value of the currency, and the means of administering speedy and effectual relief.' The amendment was negatived by 62 to 3.

The following protest was inserted. The Duke of Somerset was not in his place when the division was taken, but by vote of the 10th of February his name was allowed to stand.

1st, Because it is at all times the duty of Parliament to examine and redress public grievances; and that duty is most urgent at the present moment, when the country is afflicted with severe and unexampled distress.

2ndly, Because the nation has a right to expect that the causes of the present distress shall be immediately examined, shall be fully ascertained, and shall as speedily as possible be removed.

3rdly, Because the investigation of the subject cannot be delayed without injury and injustice to those who now suffer, and without the utmost danger to the country, of which the welfare must be destroyed, and of which the tranquillity may be disturbed, by a continuance of the present calamities.

4thly, Because this House ought also to examine the results that have arisen from altering the value of the currency, as that measure has very considerably diminished the prices of all produce, and very considerably increased the burthen of the taxes which have been imposed, and of the engagements which have been contracted.

5thly, Because the subject of which the immediate examination was proposed is of vital importance, as it affects directly all the owners and occupiers of land, and indirectly all the other interests of the country.

Philip Henry Stanhope, Earl Stanhope.

Charles Augustus Bennet, Earl of Tankerville.

Edward Adolphus Seymour, Duke of Somerset.

George Kenyon, Lord Kenyon.

DCVII.

APRIL 24, 1823.

In the autumn of 1822 differences arose between the Courts of Spain and France, which were discussed at the Congress of Verona. The events may be found in the *Annual Register*, 1823, chaps. x, xii. When the subject was discussed in the Lords (see also *Hansard*, new series, vol. viii, p. 904, for papers delivered in the House of Commons), Lord Ellenborough moved certain resolutions, to be annexed to the Address, censuring the Ministry for their conduct in the negotiations. The amendment was negatived by 142 to 48.

The following protest was entered.

1st, Because it appears that we have been baffled in all our endeavours, deceived by some and disregarded by other of our allies, and that the influence of Great Britain on the Continent has declined to a degree inconsistent with the vaunted ascendancy of our Councils at the general pacification of Europe, as well as humiliating to the feelings and injurious to the interests of the country.

2ndly, Because the failure of our endeavours to prevent a continental war is to be traced to error in judgment and want of firmness in the negotiation.

Those objections to the designs of France, which a friendly anxiety for the independence of Portugal should have suggested, and which a due regard for our own welfare and our safety should have excited, were either studiously concealed or pusillanimously softened down. During the whole discussion our negotiators were tender to the aggressors, distant, cold, and even unjust to the aggrieved, feeble in their remonstrances against the iniquity, earnest in their representations of the inexpediency and danger of the meditated war, as if the honour of the House of Bourbon, and the prosperity of France, were the exclusive objects of an English Minister's solicitude; and the balance of power, the protection of allies, and even the interests of Great Britain herself, were but secondary considerations.

3rdly, Because it was inconsistent with our professed disapprobation of interference, derogatory to the character of impartial mediators, and unfriendly to Spain, to suggest any alterations in her internal government, with a view of allaying the fears or saving the honour of France; moreover, those suggestions, highly

objectionable in principle, held no certain prospect of advantage to Spain; it does not appear that we were ever authorized to assure her, that on the adoption of the modifications we recommended, France would desist from further demands and disband the army on her frontiers; on the other hand, we were not prepared to enter into any engagements for the protection of Spain, if her consent to the alterations in her constitution, so suggested by us, had proved insufficient to avert the hostility of France.

4thly, Because if Spain had been inclined to adopt the suggested modifications, as improvements in her constitution, and could she have done so with honour, after the menacing language and conduct of foreign powers on that subject, yet it was notorious that other and serious obstacles stood in the way of such adjustment; her laws forbade any proposal of innovation on the Constitution of 1812 for a period of time which has not yet elapsed, and the members of her government had taken an oath to abide by that injunction; prudence, therefore, as well as religion and principle, deterred them from complying with our ill-timed and officious advice. A government engaged in the great work of restoring and consolidating the antient liberties of its people could not violate a recent and fundamental law without shaking the confidence of mankind in the stability of its institutions, and without furnishing, at a moment of much irritation and some civil disturbances, new grounds for distrust and suspicion, and fresh motives for division and disunion.

5thly, Because a firm determination on the part of his Majesty's Government to resist all hostile aggression against Spain, and an early and manly avowal of such determination would, in all probability, have counteracted that odious defiance of public law which a great northern power is so forward to profess and so anxious to inculcate, and might have diverted the French King from those iniquitous and ambitious projects, which the course pursued by our ministers has not prevailed upon him to abandon.

6thly, Because the neutrality of England during a contest between France and Spain must be extremely precarious.

Should France prove successful, events would ensue which would either involve us in immediate hostilities, or materially impair the sources of our prosperity in peace; the revival of the family compact, the exclusion of our commerce from all the possessions of both

the branches of the House of Bourbon, the exposure of Portugal to menace, invasion, and subjugation, the expedition of combined armaments for the recovery of South America, and the military ascendancy of France on those very coasts from which the most valuable parts of our empire are most accessible.

On the other hand, should Spain, from the nature of the war, be provoked to commit acts of violence and outrage within her own territories, and to engage in a species of warfare fully authorised by the law of self-preservation, but peculiarly obnoxious at this moment to the other powers of the Continent, viz. the encouragement of insurrections and revolution in France, we are not so blind to the lessons of experience as not to apprehend that compassion for individuals, and participations in the fears of other States, may again, in spite of our intended neutrality, involve us (as it has done before) in an extensive war of opinion, alike repugnant to the principles of our Constitutional Government, and to every maxim of antient English policy.

Even if these dangers be avoided, a protracted warfare between two maritime powers, possessing such an extent of coast as France and Spain, will expose our merchants to innumerable vexations and injuries which, in all probability, must sooner or later embroil us with one of the belligerents.

Henry Richard Fox Vassall, Lord **Holland**.

Edward Law, Lord **Ellenborough**.

Charles Augustus Bennet, Earl of **Tankerville**.

DCVIII.

JUNE 23, 1823.

By 4 George IV, cap. 43, certain public officers in Ireland were paid by annual salaries only, a schedule of such annual salaries being annexed to the Act, and the Grand Juries receiving power to make presentments, withholding the whole or part of these salaries in cases of neglect. The following protest was entered on the third reading of the Bill.

1st, In as much as, notwithstanding the entire approval of the undersigned of the principle of this Bill for restraining the profusion of Grand Juries, and arranging the future remuneration of the officers therein named for their respective duties, not by presentments at the mere discretion of the said Grand Juries, but by

annual salaries, arranged agreeably to a certain regular scale, which makes a part of the enactments of the said Bill, he does not think this House possessed of a single title of information under which it ought to feel itself prepared thus to decide upon the fortunes of eight distinct classes of public functionaries, in thirty-one different counties, five different cities, and two different counties of towns, by one desperate stroke of sweeping legislation.

2ndly, Because the undersigned does not see sufficient or any grounds on which he could adopt the present altered practice of this House compared with the course which it followed during the last Session, when a Bill precisely similar to that now under consideration was not passed into a law, for the avowed reason that your Lordships were not possessed of any sort of information to guide your decision in the arrangement of its numerous and important details, which was decidedly withheld, though your Lordships had distinctly applied for such information by a specific message to the other House.

3rdly, Because, in the still-continued absence of every detail, and under the assumed correctness in all concerns relating to money of the other branch of the Legislature as a matter almost of constitutional necessity, it does not appear to the undersigned to furnish any fresh argument for the adoption now, and without any enquiry, of the same measure which was so recently rejected : that the salaries of the Clerks of the Crown are by this Bill no less than doubled, and without any reason assigned, as compared with the amount at which they stood in the Bill of the last Session, in the most important classes, and greatly increased in all the rest, every other salary remaining the same ; and that whilst one public officer thus appears to have become, and so suddenly too, so great a favourite, the proscription and unnecessary degradation of the friendless Clerk of the Peace seems to have been no less an object with the framers of the enactments which have been under your Lordships' consideration.

Lastly, Because, that after your Lordships had yielded to the necessity of-permitting the Clerks of the Peace to be heard by their counsel before your Committee, as acknowledged to have freehold interests to defend, and when they were desirous and prepared to have supported the allegations of their counsel by evidence at your Lordships' Bar, and to have proved, beyond the possibility of question, the inadequacy of the salaries assigned by the Bill for the

discharge of their various and important duties, a distinction was taken, of which the undersigned cannot affect to speak without great surprise, as if the officer had a freehold in the obligation to discharge the duties of his office, but no freehold right to the possession of the emoluments specifically assigned by Statute for such discharge of duty; and because such distinction was, notwithstanding, voted to be the law of the land; the witnesses of the petitioners, who had been already sworn in the usual manner to give evidence before your Lordships, dismissed, unexamined, from your Bar, and any effectual consideration thus withheld respecting the injustice of which they had complained.

Richard Hely Hutchinson, Earl of Donoughmore.

DCIX.

JUNE 10, 1824.

By 4 George IV, cap. 105, the Acts 3 George IV, cap. 72, and 4 George IV, cap. 58, were continued to the 1st of August, 1825. The first in order of time in these Acts contains the ordinary provisions which have been made against disaffection and disturbances in Ireland. It was opposed, though no division was taken on the Bill, by Lords Darnley, Lansdowne, Holland, and Prudhoe. The following protest was entered.

1st, Because the arbitrary powers conferred by this Bill, however cautiously administered by the Government of Ireland, have an obvious tendency to shake the respect due to the laws of a free country, and thereby to perpetuate the evils which have so long distracted a large portion of the Kingdom of Ireland.

The frequent recourse to harsh and unconstitutional expedients teaches the gentry and magistracy of the country to seek for authority as well as security in the suspension rather than the preservation of law, and it countenances among the people an opinion fatal to all subordination, tranquillity, and happiness, viz. that they enjoy their privileges at the discretion and mercy of those who by the operation of other laws are in a great measure possessed of a monopoly of political power.

2ndly, Because the facility with which Parliament has hitherto granted such unconstitutional powers has, in our judgment, mainly contributed to the postponement of those healing measures which can alone reconcile the people of Ireland to the connection and

union with Great Britain, by extending to the great body of the community, in substance as well as in name, the full benefits of the English Constitution. After repeated and unsuccessful experiments of coercive laws in Ireland, after the constant recurrence of alarms, disturbances, and outrages in that part of the empire, and after the almost annual enactment of penal statutes abhorrent to the genius of our Constitution, and to the humanity of our age and country, we could not reconcile it to our consciences to consent to the renewal of this law, unaccompanied with any measure for the removal of those permanent causes to which the disturbances of Ireland are to be traced.

Henry Richard Fox Vassall, Lord **Holland**.
Augustus Frederic Fitzgerald, Viscount **Leinster** (Duke of Leinster).

DCX.

JUNE 11, 1824.

On the 29th of December, 1680, Viscount Stafford was beheaded on Tower Hill for alleged participation in the alleged discoveries of Titus Oates. He was attainted and his title was forfeited. A barony, created in favour of his wife, was implicated in the attainder. During the reign of James, the widow was created Countess of Stafford for life, and her eldest son, Earl of Stafford, who, however, after the Revolution, followed James II to France. This title became extinct in 1762. In 1824 the attainder of Viscount Stafford was reversed, the consent of the Commons to the Bill having been given on the 15th of June, and the Act having been sent to the Lords and signed by the King on the 24th of May. When the Bill was in Committee, Lord Radnor moved that the words 'as a measure of grace and mercy his Majesty has been advised to signify his royal pleasure,' instead of the expression 'just and proper.' The amendment was rejected, and the following protest inserted.

1st, Because his Majesty having been advised to signify to the House under his royal sign manual (for this is the constitutional mode of understanding this proceeding) that an instance of clemency to the heirs of the Viscount Stafford would meet with his royal approbation, I think the amendment which has been rejected would have been at least as respectful to his Majesty, and more congenial with our antient habits.

2ndly, Because the assertion in the Bill which was proposed to be omitted is, as far as I can discover, unprecedented, outraging the judgment pronounced in 1680, subjecting to contumely and

reproach the memory of those who passed it, and calumniating the tribunal itself.

3rdly, Because the subject matter of this Bill is (contrary to its own averment) in my opinion neither just nor proper. The Viscount was, more than 143 years since, upon a full trial by his Peers, found guilty by a majority of 24. The evidence now cannot be re-examined; no new evidence can be produced; nothing can be alleged but the insinuations, the pleas, the surmises of party. There is no point attempted to be specially stated as a ground of attack upon the sentence; there is nothing new which affects this case as a case, but there is something very new which insinuates itself into this case, and will, I apprehend, into every case which has reference to the Constitution as settled at the Revolution, to the rights of the Church, and the fundamental safeguards of the Protestant succession, I mean the advocacy of the pretensions of the Roman Catholics presumptuously stiled claims, which we have heard and seen openly avowed by the Ministers of the present day. The principal officers of the garrison seem ready to surrender, and already adopt, not the tactics only, but the objects of the invaders. The times in which the sentence in question passed were certainly marked with turbulence and faction, arising from principles precisely the same as those which are now invited to return and vegetate. With respect to the conviction I do not allow myself to reason; I find the Peer decidedly condemned; and without holding up (for I confess I rate but low) the general integrity of individuals, I cannot but assert my perfect conviction, that the Peers of England, speaking in open court, with their right hands upon their breasts, in a case of life and death, were never—were on no occasion guilty of the dishonesty with which the 55 Peers of 1680 are stigmatized by this Bill; a Bill which I seriously believe would never have seen the light but from a predisposition in the King's Ministers to assist and oblige those who are of the same religious persuasion as was the convict whom it absolves, and whose posterity it rehabilitates. I forbear to allude to another difficulty which I see in the way of this reversal. During the eclipse of Lord Stafford's family, the Crown has revived the title, by conferring it on another noble family who are in possession; the arguments and grounds on which this difficulty originates are visible in the proceeding respecting another family in the Journals of the 14th of

March, 1793. It is a point not unworthy consideration, whether the reversal of the attainder by Act of Parliament will annihilate such late grant, or set the two claims in competition. For the moment, I am aware that discussion will be useless.

Jacob Pleydell Bouverie, Earl of **Radnor**.

DCXI.

JUNE 18, 1824.

An Act (5 George III, cap. 83) was passed in this Session for the punishment of idle and disorderly persons, and rogues and vagabonds in England. During the passage of the Bill in the House of Lords, certain amendments were inserted. To these, with one exception, the Commons agreed; that to which they dissented being a clause which fixed the settlement of a bastard child in the mother's place of settlement, and not in the place in which it was born, in case the woman came under the designation of 'idle and disorderly person, rogue, vagabond, or incorrigible rogue.' A conference was held on the subject, and the Lords did not insist on their amendment. The following protest was entered.

Because the amendment of the Lords being just and reasonable, and no reason having been assigned by the Commons for disagreeing to it, the Lords, by not insisting upon such amendment, practically abandon their power of amending Bills sent to them from the Commons, and thus establish a precedent most injurious to their own privileges and to the true interests of the people.

Edward Law, Lord **Ellenborough**.

Robert Grosvenor, Earl **Grosvenor**.

Arthur Blundell Sandys Trumbull Hill, Earl of **Hillsborough**
(Marquis of Downshire).

Peter King, Lord **King**.

James St. Clair Erskine, Earl of **Rosslyn**.

DCXII.

JUNE 21, 1824.

By 5 George IV, cap. 109, the Earl Marshal and his deputy were allowed to execute their office without taking any other oaths than those of allegiance and the due discharge of their office. The Bill was carried through by Lord Holland, and its second reading affirmed by 24 to 10. After the Bill was read a third time and passed, the following protest was inserted, and on the 24th of June Lord Holland called attention to the circumstances under which the Bill was passed and the protest signed. See Hansard, new series, vol. xi, p. 1482. The House gave the signatories leave to withdraw their protest, of which they did not avail themselves.

Because, on general principles, I object to any concession to Roman Catholics, either collectively or individually, and that this Bill violates the Constitution, by enabling a papist to hold a high office near the person of a Protestant King, and dispensing with those oaths which a Protestant is bound and required to take.

Because the peculiar dispensation with the oath of supremacy to a papist, must of necessity create a constitutional jealousy on the part of Protestants, thereby originating feuds and animosities, but most especially at the present time, when papists avow their intentions in language and by acts so undisguised that they cannot be misunderstood.

Because to sanction the separation of the oaths of allegiance and supremacy is to establish a most dangerous and alarming precedent, inasmuch as the union of Church and State forms the basis of our constitutional greatness and excellence, freedom and security; and lastly, because at this very late period of the session, and at the early hour of five o'clock, before Peers had arrived at the House, the present decision cannot be considered to be the sense of this House, many Peers being absent, and the House taken quite unawares.

For these reasons, and having the welfare of my country deeply at heart, I solemnly protest against this Bill and other measures of a similar nature which are now in a constant course of progression.

Henry Pelham Clinton, Duke of Newcastle.

Montague Bertie, Earl of Abingdon, for the first and third reasons.

DCXIII.

MARCH 3, 1825.

The King's Speech (the 3rd of February) called attention to the fact that 'associations existed in Ireland which have adopted proceedings irreconcilable with the spirit of the Constitution.' This was a reference to the Catholic association. The debates on the subject are to be found in Hansard, vol. xii, new series, and an event of the early Session was Sir Francis Burdett's motion for a committee on the Roman Catholic claims, carried against the Government by 247 to 234. The subjoined protest arose from a motion that certain Irish Catholics, who had petitioned against the Bill, should be heard by counsel. This prayer was supported by Lord Carnarvon, and opposed by Lord Liverpool. The second reading of the Bill, 6 Geo. IV, cap. 4, was carried by 146 to 44.

1st, Because the Bill contains new restrictions on the exercise of a right coeval with our earliest institutions, viz. the right of petitioning, and new prohibitions and restraints on practices connected therewith, usually and legally resorted to by all classes of his Majesty's subjects who seek redress from laws by which they deem themselves aggrieved.

2ndly, Because all proof of the existence and extent of such danger, as can alone justify a measure of this nature, was withheld from the House, and petitioners, who deemed themselves particularly aimed at and aggrieved by the provisions of the Bill, were denied the permission of being heard at the Bar, or adducing evidence in vindication of their conduct, or in proof of the injury which their interests would sustain in the event of the Bill passing into a law.

3rdly, Because the danger to be guarded against by this Bill is not distinctly stated in any part thereof, and the danger apprehended does in fact arise from grievances which naturally and necessarily produce discontent in many millions of our Irish fellow subjects.

We are indeed well aware that the privileges of the people, the rights of free discussion, and the spirit and letter of our popular institutions, must render (and they are intended to render) the continuance of any extensive grievance, and of the dissatisfaction consequent thereupon, dangerous to the tranquillity of the country, and ultimately subversive of the authority of the State. Experience and theory alike forbid us to deny that effect of a free Constitution—a sense of justice and a love of liberty equally deter us from lamenting it. But we have always been taught to look for the remedy of such disorders, and the prevention of such mischiefs, in the redress of the grievances which justify them, and in the removal of the dissatisfaction from which they flow; not in restraints on antient privilege—not in inroads on public discussion, nor in violations of the principles of a free government.

If, therefore, the legal method of seeking redress which has been resorted to by persons labouring under grievous disabilities be fraught with immediate or remote danger of the State, we draw from that circumstance a conclusion long since foretold by great authority, viz. 'That the British Constitution and large exclusions cannot subsist together; that the Constitution must destroy them,

or they will destroy the Constitution; and we are thereby confirmed in our determination not to sacrifice any part of the ancient privileges of the people for the purpose of preserving certain statutes, which are comparatively modern, which are themselves restraints on the rights of the people and on the prerogatives of the Crown, and which, in our conscience, we believe cannot long be maintained without civil bloodshed, or the surrender of all constitutional liberty in a part of the empire united to Great Britain, and thereby entitled to a full participation in the benefits of our free Constitution.

Henry Richard Fox Vassall, Lord **Holland**.

Augustus Frederic, Duke of **Sussex**.

Arthur Blundell Sandys Trumbull Hill, Earl of **Hillsborough**
(Marquis of Downshire).

Laurence Dundas, Lord **Dundas**.

Henry George Herbert, Earl of **Carnarvon**.

George Capel, Earl of **Essex**.

Francis William Caulfield, Earl of **Charlemont**,

Augustus Frederic Fitzgerald, Viscount **Leinster** (Duke of
Leinster).

Charles Grey, Earl **Grey**.

George Eden, Lord **Auckland**.

Henry Fitzmaurice Petty, Marquis of **Lansdowne**.

John Bligh, Lord **Clifton** (Earl of Darnley).

William Wentworth Fitzwilliam, Earl **Fitzwilliam**.

Peter King, Lord **King**.

Robert Grosvenor, Earl **Grosvenor**.

Richard Hely Hutchinson, Earl of **Donoughmore**.

Henry Welbore Ellis, Lord **Mendip** (Viscount Clifden).

DCXIV.

MARCH 7, 1825.

The Unlawful Societies Bill was read a third time and passed on this day.

The following protest is inserted.

For the reasons assigned by divers Lords in their protest against the second reading of the same Bill, entered in the Journals of this House on Thursday last, the third day of this instant March.

James St. Clair Erskine, Earl of **Rosslyn**.

DCXV.

MAY 26, 1825.

Lord Holland brought in a Bill, the object of which was to prevent any attainer in high treason and certain other crimes extending to the disinheritance of any heir, or to the prejudice of the right or title of any person or persons other than the offenders, and moved its second reading on the 26th of May. See for Lord Holland's speech Hansard, new series, vol. xiii, p. 825. Lord Colchester moved that the Bill be read that day six months. The motion was carried by 15 to 12, and the following protest entered.

1st, Because the law of forfeiture and corruption of blood, inasmuch as it despoils the innocent of their legal inheritance and expectations is founded on principles inconsistent with natural justice and revolting to humanity.

Penalties inflicted on guilt may in other instances too often affect indirectly the interests and directly the feelings of innocent persons such is perhaps the unavoidable imperfection of penal law: but to endeavour to deter the evil-disposed from the perpetration of wickedness by an avowed design of wreaking vengeance on their unoffending relations and posterity is wantonly to select a sad, if necessary, defect to which human punishments are occasionally liable, as the very essence, rule and principle thereof, and to expect from cruelty that security which nothing but justice can or ought to confer on political societies.

2ndly, Because the unjust and inhuman device of punishing the innocent heirs of a traitor for the treason of their relation or ancestor has in all seasons of civil commotion been found insufficient to deter men of strong passions, however elevated their fortune or their rank from engaging in treasonable designs, and has an obvious tendency to shake the stability of property to perpetuate the remembrance of political feuds and to aggravate in individuals and families, in parties and sects, the turbulent vices of rapacity and revenge.

3rdly, Because the adoption of the Bill would have disturbed no principle of English law now in force, nor created any exception to the general consequences of attainer on conviction and sentence for capital offences.

The law of forfeiture and of corruption of blood, as far as they affect the property or rights of the offender during his life, would

have remained in full force; and the consequences of attainder since the 54th of George III no longer affect the inheritance of any person or persons, save the offender and his accomplices in any other case, except those of treason and murder.

The law and consequences of attainder in all capital crimes would therefore have been more uniform and consistent after the provisions of this Bill had passed into law than they are now left by its rejection. It seemed moreover to us that the heir of a traitor or a murderer being as little implicated in the guilt of treason and murder, as the heir of any felon in his felony, a similar immunity from all share of the punishment which on principles of justice or of mercy had been granted to the one should in reason be extended to the other.

4thly, Because the continuance of the law of corruption of blood and of forfeiture affecting estates in tailzie disappoints the just expectations of the people of Scotland, and creates perplexities and anomalies in the jurisprudence of that part of the United Kingdom.

Corruption of blood was never part of the law of Scotland till after her union with England.

Forfeiture, so far as it affects the heirs of an offender possessed of an estate in tailzie, having been declared a grievance by the Scottish Parliament at the revolution, was by a subsequent Act of that legislature abolished in 1690; and although both those consequences of attainder were for reasons arising from the emergencies of the time extended, together with other provisions of the English law, in cases of high treason to that part of the United Kingdom by an Act of the 7th of Queen Anne, yet they were both doomed to expire by the provisions of that very statute, and actually stood condemned by the British Legislature during the greater part of the last century. The immediate operation of those laws which in the course of a very few years deprived many noble and opulent families of Scotland of their ancient possessions, proved that they were insufficient to deter powerful men from the commission of treason, and failed to reconcile the people of Scotland to their wisdom or their justice; and the subsequent restoration, in part, of the forfeited lands to the descendants of the offenders, as well as the recent reversal of nearly all the attainders, at the gracious and benign recommendation of the Crown, seem to

amount to an acknowledgment that the consequences of such laws are unsuitable to the age and country on which they have been imposed, and repugnant to the royal feelings of a just, generous, and merciful prince; moreover the application of these laws to high treason in Scotland has not only been found harsh, but uncertain and difficult, owing to the different system of law subsisting in that country.

It appeared in an appeal to this House on the 21st of March¹, 1751, that in consequence of the diversity in the nature of Scotch tailzies with substitutions, and English entails with remainders over, strict legal reasoning might and would carry forfeitures to a larger extent in Scotland than in England and the judgment of this House possibly with a view of avoiding that cruel consequence (a view more reconcileable to equity and to mercy than to law), did thereupon introduce at least with respect to forfeiture, a remainder into Scotch law which, till then and in all other cases, is alien and unknown to the principles which regulate succession to real estates in that part of the United Kingdom.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

Henry Richard Fox Vassall, Lord **Holland**.

Henry Fitzmaurice Petty, Marquis of **Lansdowne**.

Archibald John Primrose, Earl of **Rosebery**.

James St. Clair Erskine, Earl of **Rosslyn**.

Thomas Howard, Earl of **Suffolk and Berkshire**.

Gilbert Eliot, Earl of **Minto**.

¹ I have not been able to discover the case to which the author of this protest (probably Lord Holland) alludes. The House of Lords met on March 21, 1751, but did not sit apparently, as no other business is entered on the Journal of that day, beyond the motion for adjournment to the next.

THE BORROWER WILL BE CHARGED
AN OVERDUE FEE IF THIS BOOK IS NOT
RETURNED TO THE LIBRARY ON OR
BEFORE THE LAST DATE STAMPED
BELOW. NON-RECEIPT OF OVERDUE
NOTICES DOES NOT EXEMPT THE
BORROWER FROM OVERDUE FEES.

CANCELLED
AUG 31 1968
1998798

